

Montgomery County Circuit Court FY2009 Case Time Processing Report



Montgomery County's Fiscal Year 2009

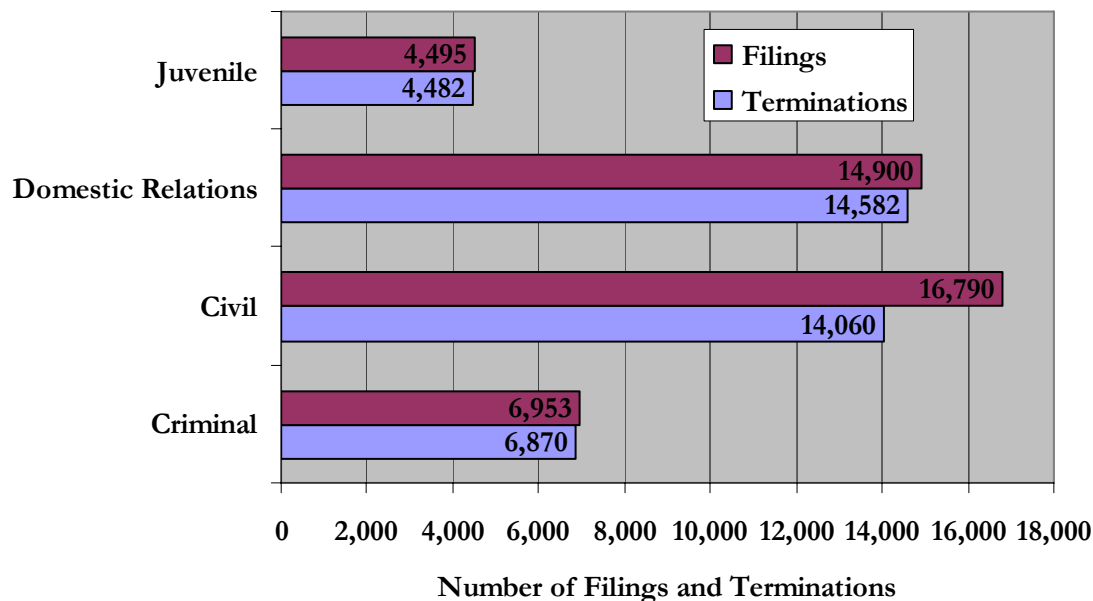
Case Processing Time Report

Executive Summary

Montgomery County Circuit Court Workload Performance for FY2009

- Montgomery County Circuit Court's key workload performance measures include case filings, terminations, and clearance rates. During Fiscal Year 2009 (FY09), the Court processed 43,138 case filings, including 27,289 original filings (63%) and 15,849 (37%) filings of reopened cases. A total of 39,994 cases were terminated in FY09, of which 24,323 were original and 15,671 were terminations of reopened cases. Case type-specific filings and terminations are presented in Chart 1. The FY09 overall clearance rate (including both original and reopened cases) is 93% compared to 96% in FY08. For three of the four major case types (civil, criminal, domestic relations and juvenile), the Court has been able to maintain a clearance rate of close to 100% (i.e., terminating as many cases as are filed) for the past eight fiscal years. The clearance rate for civil cases has been in decline since FY2007; the clearance rate was 103% in FY2006, 94% in FY2007, 89% in FY2008, and 84% in FY2009. The declined civil clearance rate is due to increased filings, primarily foreclosure filings, relative to case terminations that started in FY07 related to the larger economic downturn. The increased backlog experienced in civil cases (as reflected in the clearance rate) may be attributable to a variety of factors to include but not limited to the increase in foreclosures, and an additional analysis is needed. In order to maintain the civil clearance rate at its FY07 level, the Court would have to increase (not just maintain) its civil case processing efficiency so as to offset the increase in filings experienced in FY09.

Chart 1 Filings and Terminations by Case Type, FY09



Montgomery County Circuit Court Caseflow Assessment Performance for FY2009

- For the purpose of the Maryland Caseflow Assessment, Montgomery County Circuit Court had 19,389¹ original case terminations during FY09, which is a slight increase (12 terminations) from the FY08 level (19,377). While the number of civil and child in need of assistance (CINA) shelter cases increased by 503 and 65 terminations respectively between FY08 and FY09, other case types experienced a reduction in terminations ranging from 9 (CINA non-shelter) to 233 cases (domestic relations). The substantial increase in civil case terminations was largely due to the increase in foreclosure filings. The decline in domestic relations (DR) cases is possibly due to an increase in the number of cases languishing with post-judgment motions filed prior to case closure as a means to bypass the filing fee.
- Table 1 presents the Montgomery County Circuit Court's case processing performance measured in terms of the percentage of cases closed within the state-defined time standards. The table also displays the statewide goals and the consolidated statewide within-standard percentages (unweighted "statewide averages"). The analysis was based on all original case terminations in FY09.
- Similar to FY08, Montgomery County Circuit Court's performance is above the state performance goal for DR cases. In particular, 92% and over 99% of DR cases closed within the 1-year and 2-year time standard, respectively. When comparing against the FY09 statewide averages (unweighted), the County's performance is at or above those averages for all case types except for CINA Shelter and Non-Shelter. The Court closed 69% of CINA shelter cases within the state 30-day standard, which is 2 percentage points lower than the statewide percentage (71%), and 81% of CINA non-shelter cases were closed within the state 60-day standard, which is again 10 percentage points lower than the statewide percentage (91%). The Circuit Court's case processing performance of TPR cases (95%) is substantially above the statewide percentage (41%). The Court will continue to aggressively manage its caseload and implement improvement initiatives as necessary, realizing that there are always opportunities for improvement.

Table 1 Maryland Case Processing Standards and Montgomery County's FY07-09 Performance

Case Type	Caseflow Time Standard	Montgomery County Terminations			Percent Within-Standard				Statewide Average, FY09*
		FY08	FY09	FY09- FY08	State Mandated	Montgomery County			
						FY09	FY08	FY07	
Civil	548	7,243	7,746	503	98%	96%	95%	94%	93%
Criminal	180	2,613	2,478	-135	98%	96%	86%	89%	93%
Domestic, standard 1	365	7,673	7,440	-233	90%	92%	90%	90%	91%
Domestic, standard 2	730				98%	>99%	>99%	99%	98%
Juvenile Delinquency	90	1,492	1,384	-108	98%	96%	95%	98%	95%
CINA Shelter	30	173	238	65	100%	69%	80%	60%	71%
CINA Non-Shelter	60	73	64	-9	100%	81%	90%	88%	91%
TPR	180	70	39	-31	100%	95%	61%	42%	41%
Total		19,337	19,389	52					

* As of November 17, 2009, the Statewide Caseflow Assessment has not been completed. Accordingly, the Statewide within-standard averages provided above are preliminary, unweighted percentages, which tend to overestimate the performance of smaller jurisdictions that in general perform better than larger jurisdictions, thus yielding a more optimistic figure than its weighted counterpart.

- The Court's case processing performance increased from FY08 to FY09 for civil, DR, and juvenile delinquency cases. The case processing performance of criminal cases increased by 10 percentage

¹ Since certain case types are excluded from the Caseflow Assessment and the Assessment includes only original terminations, the total number of terminations used for the assessment (19,398) is lower than the overall terminations reported (24,323 terminations) that the Court processed for FY09.

points largely due to a change in the criminal time standard that now measures case time from the first appearance to verdict instead of sentencing. That said, when measuring performance from the previously defined time standard case stop date (i.e., sentencing), 88% of the FY09 cases were closed within-standard, which is 2 percentage points higher than above that for FY08. As mentioned above, CINA shelter and non-shelter cases, both of which experienced improvements in their performance between FY07 and FY08, experienced declines in FY09, whereas the case processing performance of TPR cases improved substantially to 95% in FY09 from 61% in FY08. Several initiatives undertaken by the Court as well as external agencies that were implemented mid-FY08 contributed to the marked improvement in TPR case processing performance in FY09.

- Table 2 provides the overall Average Case Time (ACT) for FY07 through FY09 for within-standard and over-standard cases. Notable is the substantial decline in the ACT for TPR cases over 3 years, including 20 days between FY07 and FY08 and 40 days between FY08 and FY09. Though not as substantial as TPR cases, domestic relations cases also experienced a decline in ACT from 157 days in FY07 to 148 days in FY09. While the ACT for criminal cases decreased by 18 days between FY08 and FY09, this decline is largely due to the change in the criminal time standard. In other case types, including civil, juvenile delinquency, and CINA shelter and non-shelter cases, the ACT increased or remained at about the same level between FY08 and FY09.

Table 2 Average Case Processing Time (in Days) by Case Type, FY07-09

Case Type	Caseflow Time Standard	Overall, Average Case Processing Time			FY09 Average Case Processing Time	
		FY07	FY08	FY09	Within-Standard	Over-Standard
Civil	548	222	213	226	205	716
Criminal	180	92	95	77	68	270
Domestic Relations, standard 1	365	157	155	148	117	505
Domestic Relations, standard 2	730				143	916
Juvenile Delinquency	90	41	46	47	43	134
CINA Shelter	30	35	27	34	23	58
CINA Non-Shelter	60	44	43	56	36	140
TPR	180	208	187	145	143	196

- The percentage of trial postponements was greater among criminal cases (48%) as compared to civil (3%), DR (2%), juvenile delinquency (29%), CINA shelter (39%), CINA non-shelter (27%), and TPR (26%) cases. Over 70% of criminal trial postponements were due to a computer generated trial date, of which 10% resulted in over-standard cases, accounting for 46% of over-standard cases. Thus, some of these postponements do negatively affect the case processing time. It is speculated that if the Court addresses its rather frequent trial postponements, performance might be improved.
- Interestingly, the most frequent postponement reason among TPR cases is also a computer generated trial date. While postponements are not as problematic for TPR cases as criminal cases because all TPR cases with postponements closed within-standard, the use of this postponement reason does call into question the Court's scheduling practices. Based on the Court's review of TPR postponement reasons since FY07, this is the first year that 'system-generated trial date' has been used as a postponement reason let alone the most frequent reason. The Court may want to consider developing measures to prevent the use of this postponement reason from becoming 'common' practice. Further, the Court should examine how postponement reasons are being chosen and assess whether there is consistency across departments in the meaning of postponement reasons.
- A more thorough analysis of postponements to include pre-trial hearing postponements may be important in order to obtain an accurate and complete picture of the impact of postponements on the Court's case management process. Specifically, it is important to understand the number, type (trial vs. pre-trial hearing), reason, and length of postponements present in each case and the impact that those factors have on case processing time. While it may be a postponed trial that is ultimately scheduled

outside the time standard guidelines, several pre-trial postponements may have placed the case in a posture where any postponement of the trial would result in an over-standard case. Regarding the analysis of trial postponements and their impact on the ACT, grouping cases into those that had trials and those did not and analyzing them separately may provide a better picture of the impact of trial postponements on the Court's case processing performance.

- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases perform against its DCM time standards, and determining at which stage of case processing that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further performance decline.
- Montgomery County Circuit Court may want to investigate the extent to which cases are inactivated and for what reasons. As noted in the Court's FY08 Caseflow Assessment Report, cases are often placed on the Court's 'general stay docket' for various reasons such as 'pending the outcome of another Circuit Court case', 'pending Alternative Dispute Resolution or Mediation', 'pending settlement negotiations', etc. Since these periods of inactivity are not excluded from the calculation of the case processing time because they are not caseflow-defined suspension events, the case time of those cases with these stays is over-estimated. Before the Time Standards Sub-Committee can decide whether these type of suspension events should be captured, additional information is needed on how frequently these inactive periods occur in terms of case types and jurisdiction, and the impact that these stay orders have on case processing performance. It is recommended that the Court decide whether such analysis would align with the strategic objectives of the Court.
- Ensuring that data quality controls are consistently implemented across case types is critical to the integrity of the analysis and ultimately the conclusions drawn from the report. Identifying cases that have an incorrectly calculated clock time could affect whether a case type is viewed as performing better or worse than in the past. Caution should also be exercised when comparing figures across fiscal years because various factors, such as data quality improvements over time, the shift in composition of cases by sub-type, and changes in the state case time standard, may explain variation in the identified improvements or declines in case processing performance.

Montgomery County's Fiscal Year 2009 Case Processing Time Report

Abstract

In an effort to assess Montgomery County's case processing performance for Fiscal Year 2009 (FY09), Montgomery County Circuit Court included all original case terminations for analysis². In FY09 there were a total of 19,389 (FY08: 19,337, FY07: 17,306) original closures by the Circuit Court across civil (N = 7,746, FY08: 7,243; FY07: 6,320), criminal (N = 2,478, FY08: 2,613; FY07: 2,485), domestic relations (DR, N = 7,440, FY08: 7,673; FY07: 6,722), juvenile delinquency (N = 1,384, FY08: 1,492; FY07: 1,485), child in need of assistance (CINA: N = 302, FY08: 246; FY07: 263), and termination of parental rights (TPR: N = 39, FY08: 70; FY07: 31) cases. Of the 302 CINA cases, 238 were shelter cases and 64 were non-shelter cases.

Montgomery County's case processing performance for civil and domestic relations cases improved slightly between FY08 and FY09. In FY06 and FY07, the Circuit Court met the statewide standard for DR and juvenile delinquency cases; however, in FY09, similar to FY08, the Court fell short of meeting the juvenile delinquency time standard by two percentage points. The Court declined in its processing performance of CINA shelter and non-shelter cases after achieving its highest performance levels in FY08. Specifically, only 69% of CINA shelter cases, compared to 80% in FY08, and 81% of CINA non-shelter cases, compared to 90% in FY09, were closed within-standard. In contrast, the case processing performance of TPR cases substantially improved from 61% in FY08 to 95% in FY09 as a result of a series of initiatives implemented mid-FY08. Criminal case processing improved dramatically between FY08 and FY09 from 86% to 96%; however, this improvement is likely the result of a change in the case stop date from sentencing to verdict.

When compared to the statewide within-standard averages across case types, Montgomery County's performance was higher for all case types except CINA shelter and non-shelter.³ Specifically, the Circuit Court's performance of these cases was 69% and 81%, respectively, compared to 71% and 91% for the unweighted, statewide within-standard percentage. However, Montgomery County continues to fall short of achieving the defined time standards goals for all case types except DR cases. To address these efficiency gaps, the Court is undertaking a comprehensive review of its DCM Plans, court policies, and procedures.

² However, the cases with following sub-case types are excluded from the assessment: adoption, asbestos, consent, domestic violence, federal tax lien, friendly suit, homeowners association, lien, Lis Pendens, recorded judgment, peace order, transfers from other jurisdictions for probation, voluntary placement, reopened, and restricted (sealed) cases.

³ As of November 17, 2009, the Statewide Caseflow Assessment has not been completed. Accordingly, the statewide within-standard percentage represented is preliminary, unweighted statewide within-standard percentages, which do not take into account the total number of terminations reported to the State by participating Jurisdiction. The unweighted percentage, which tends to overestimate the performance of smaller jurisdictions that in general perform better than larger jurisdictions, generally yields a more optimistic figure than its weighted counterpart.

Montgomery County's Fiscal Year 2009

Data Quality Review Procedures

Since Montgomery County Circuit Court maintains its data, the Court's data quality review procedures were performed earlier than most courts with the majority of the data quality efforts undertaken prior to the data being uploaded to the Caseflow Assessment Application. Also, Montgomery County Circuit Court's data quality review procedures occur throughout the year and are not solely performed for the purposes of the caseload assessment. Therefore, a discussion of Montgomery County's data quality review process will not only include information on the procedures undertaken to ensure the quality of the FY2009 (FY09) caseload data but also the procedures performed throughout the year that can impact case processing performance in advance of a case closing and eventually becoming part of the caseload assessment.

Montgomery County Circuit Court is committed to ensuring the quality of its data for case management purposes as well as implementing its mission of administering justice to County residents "in an honest, fair, and efficient manner." Data quality review is a year-round, collaborative effort undertaken by Court Administration and the Clerk of the Court. Data Processing, Quality Control, Assignment Office, Family Division Services, and departments under the Clerk of the Court play various roles in the Court's data quality review efforts. Provided below is a brief description of these offices and their role in the data quality review process:

Data Processing (DP): Under the Technical Services Department, DP maintains the Court's case management data and generates various case processing-related reports for Quality Control, Administration, case managers, and clerks throughout the year. The reports generated vary in purpose, which include:

- Questionable Case Reports on cases with conflicting data entered by the Assignment Office, Courtroom Clerks, Civil, Criminal, Family, and Juvenile clerks,
- Open Case and Case Exceeding the Court's differentiated case management (DCM) Track specification reports that require the Court's review and possible actions or those that require the Court's close monitoring, and
- Audit sheets for all closed cases for the verification of information associated with key case events.

During the data preparation period, DP creates case type-specific detailed reports of over-standard cases for review and analysis and extracts random samples of cases that are uploaded to the Assessment Application.

Quality Control and Administrative Aides (QC/AA): A Division created by the Court Administrator to monitor the quality of case data generated by various offices in the Circuit Court and to analyze quality improvements necessary in the system. This Division monitors civil, criminal, and domestic relations cases, and works collaboratively with the Clerk of the Court's departments to ensure the accuracy of the annual caseload data.

Assignment Office (AO): AO is responsible for scheduling hearings and trials, and for ensuring that all events are scheduled in compliance with the Court's Differentiated Case Management (DCM) Plans. AO staff work with the courtroom clerks to ensure that the outcomes of posted events are accurately reflected and updated in the Court's case management data system. If a code mismatch occurs between AO and the Clerk's Office personnel on posted event outcomes, a report is generated by DP.

AO staff and the Clerk's Office personnel work together to reconcile all of the mismatched codes reflected on that report.

Court Administration: The Office of Court Administration acts as a conduit for many judicial and non-judicial operations of the Court, facilitates the administrative responsibilities of the Court, and develops policies to enhance system performance while maintaining the independence of the judiciary. The caseload assessment and the quality control of the Court's case data were mainly performed by the QC staff under the Court Administrator until the appointment of a new Clerk of the Court. Since then the Court Administrator collaborates with the Clerk of the Court to define and implement routine court data quality procedures. Designated administration personnel perform additional reviews of the data to ensure its accuracy is maintained. The administration staff is also responsible for making sure that the data is correctly uploaded to the Assessment Application.

Clerk of the Court-Civil, Criminal, Family, and Juvenile Departments and Courtroom Clerks: As detailed in Maryland Code 2-201, the Office of the Clerk of the Court was established as an independent keeper of the records to maintain their integrity in a safe and impartial manner. As part of ensuring the fulfillment of its responsibility, under the new leadership, the Civil, Criminal, Family, and Juvenile Departments as well as the Courtroom Clerks, work closely with Quality Control, Administrative Aides, Assignment Office, and Family Division Services Case Managers to improve data entry and correction procedures, to reconcile discrepancies in case information and to discuss and resolve various issues.

Family Division Services: While its main function is to provide auxiliary services to parties involved in domestic relations and juvenile cases, its Family and Juvenile Case Managers are an integral part of the Court's year-round data quality review process by checking the progress of the cases and preparing them in the right posture to be before the designated judges and masters.

Data Quality Procedures Performed Throughout the Fiscal Year

This section focuses on the data quality checks performed throughout the fiscal year on open cases, some of which have subsequently closed and are included in the Court's FY09 caseload data. Montgomery County Circuit Court's QC/AA, Family and Juvenile Case Managers, and Clerk's Office personnel perform routine data quality checks on all open criminal, civil, domestic relations (DR), and juvenile delinquency cases throughout the fiscal year. In order to maintain the accuracy of docketed information, department managers, supervisors and lead workers oversee clerks' docket entries for errors. They also review the docket information printed on the audit sheets for closed cases before the files are given to QC/AA or Family Division Services Case Managers. On a weekly basis, QC/AA and designated clerks in the Criminal, Civil, Family, and Juvenile Departments monitor cases without future scheduled events that need the Court's close attention or immediate action, validate the codes entered by the Clerk's Office, Courtroom Clerks, and Assignment Office, and ensure that cases are being set in the proper posture. The main objective of these activities is to monitor case processing activities and the progress of open cases and to make certain that cases are disposed according to the Court's DCM Plans, which meet and exceed the current state time standards.

One of the major undertakings of QC, Case Managers, and the Clerk's Departments is performing audits of closed cases. During auditing, personnel from various departments compare key case information extracted from the Court's case management data in **all** closed criminal, civil, domestic relations and juvenile cases with the information in actual case files. Specifically, Administrative Aides audit the civil cases, Quality Control audits miscellaneous petitions and criminal cases and assists the Administrative Aides with auditing civil cases, when necessary. Family Division Services Case Managers audit domestic relations cases and the Juvenile Department Manager audits the juvenile

delinquency cases. Examples of the key data fields audited include filing, service, and answer dates, as well as case stop date, trial settings, disposition codes, etc. The audit sheets are tailored to key information (or data fields) for each case type. As in previous years, all FY09 criminal, civil, DR, and juvenile delinquency cases were audited by court personnel (either QC/AA, case managers, Juvenile Department Head). New for FY09, the Court started auditing child support cases (Montgomery County Office of Child Support and Enforcement (MCOCS)) cases, as well as auditing child in need of assistance (CINA) cases, and termination of parental rights (TPR) cases. Montgomery County Circuit Court believes that its case audits meet, if not exceed, the '10% Review' requirement defined in the FY2009 Caseflow Assessment Training Manual. Therefore the "reviewed" box in the Assessment Application will not be checked to indicate that the cases were reviewed by the Court after uploading as they were audited prior to the caseflow data being uploaded to the Caseflow Assessment Application

As part of continuing efforts to improve case processing performance, representatives from the Clerk of the Court, Court Administration, Courtroom Clerks, QC/AA, Assignment Office, Family Division Services, Juvenile, and Court Researchers hold monthly meetings for each case type in which they identify and address any case processing issues that require inter-departmental coordination.

Data Quality Procedures Performed Specifically on the FY2009 Caseflow Data

In addition to conducting audits of closed cases and performing routine checks of the accuracy of the Court's docket entries, designated court personnel also performed additional data quality reviews specifically during the data preparation period to generate the FY09 caseflow data. First, Data Processing compiled the cases closed in FY09 into a case type-specific database (Microsoft (MS) Access tables), which contains the mandatory and optional data fields that align with those in the Caseflow Assessment data. Using the information in the data tables, Data Processing created reports that list all over-standard cases with the key data fields (as defined in the Circuit Courts Case Time Standards) for each case type (civil, criminal, DR, juvenile delinquency, CINA and TPR). The caseflow data is reviewed by the Court Researchers and Court Administration personnel to ensure the accuracy of the case information which has already been audited, and to identify the reasons why cases are over-standard through reviewing the docket entries contained in the Court's data management system. For FY09, review primarily focused on docket entry errors as opposed to explaining why a case was over-standard. Review of the FY09 data also focused on cases with missing suspension start or stop dates. In particular, the Court Researchers identified missing suspension begin or end dates by comparing caseflow data contained in the MS Access tables, the Court's case management system, actual case files and occasionally information obtained from *CourtSmart*. Questionable cases were then provided to Court Administration to verify the Court Researchers' findings.

Additional Data Quality Review Procedures Performed on the FY2009 Caseflow Data

Finally, the Court Researchers performed additional data quality checks on the caseflow data. Instead of verifying the information of each case with the actual files, the Court Researchers ran the data with a statistical package and identified errors that had been overlooked during the more intensive and targeted data reviews. For example, the Court Researchers recalculated the case processing time based on the information available from the data and compared it with the case time originally calculated by DP to ensure that all the valid suspension events were taken into account and that the correct time was reflected. In the past, this analysis revealed the omission of particular types of suspension events or instances where the suspension end dates were not appropriately extracted. The Court Researchers also checked and verified the cases with negative case times, missing start dates, or missing suspension start/stop dates so as to fulfill the caseflow requirement of performing an 'initial data quality review.' All reviews were conducted initially by checking the information from the Court's case management

data and then with the actual case files when necessary. In this sense, the checks performed by the Court Researchers closely aligned with the caseflow's initial data quality review, and served as the final review before any analyses were performed.

In addition, prior to the FY09 caseflow assessment period, Court Researchers held a series of meetings with clerks from the Clerk's Office, QC and DP to identify key event codes that DP uses when extracting the caseflow assessment data, in particular suspension events, and those that clerks use when they make docket entries. The objectives of these meetings were to eliminate any discrepancies between data entry and extraction. Based on discussions held at these meetings, Court Researchers prepared reference tables for data entry clerks and DP to ensure that personnel are clear about the docket entry codes that align with the caseflow suspension events.

Characteristics of the Errors Uncovered during the Data Quality Reviews

During this fiscal year's review of the caseflow data, some of the errors uncovered include incorrect docket codes used to inactivate or close a case, as well as challenges in capturing the appropriate suspension end date. For example, criminal cases often have docket codes for an evaluation order of Not Criminally Responsible (NCR), general Psychological Evaluation and Incompetency that are used interchangeably. This occurs partly because what is ordered is not clear since a single evaluation could be used for both NCR and Competency and partly because the reports received do not always use the same language as in the original order. As a result, it is not uncommon for the caseflow data to have a missing start or end date for at least one of these suspension events. Further, instances where no report is filed with the court prior to the hearing in which the report is to be used often results in no suspension end date. Efforts are being undertaken to minimize the presence of such questionable case information. However, in the meantime, Court personnel needs to review the case files when such questionable information is uncovered and identify whether or not the missing data elements are valid.

During a review of civil cases, the Court experienced several challenges related to correctly identifying the status changes of multiple defendant cases. Accurately tracking changes in case status is important because Montgomery County Circuit Court suspends case time only when a case goes inactive, and the presence of multiple defendant cases creates challenges identifying the point at which a case goes inactive. For example, challenges in identifying status occur when a multiple defendant case has one defendant in bankruptcy yet the case initially remains active as to the other defendants. When those 'active' defendants receive their judgments, the case status should change from active to inactive if the defendant (initially in bankruptcy) remains in bankruptcy. In addition, the suspension start date in this case is no longer the 'suggestion of bankruptcy' but rather the date the case went inactive (following the judgments received on the non-bankruptcy defendants). The Court should discuss viable strategies for tracking the case status when multiple defendants and caseflow-related suspension events are present in a case.

A few examples of questionable case information uncovered in juvenile delinquency and child welfare cases include:

- Missing Suspension Event Dates: Efforts were undertaken early in FY09 to address challenges with capturing the suspension end dates associated with the orders for a Pre-Disposition Investigation (PDI) report and Pre-Disposition Treatment (PDT) program. Since these initiatives were implemented mid-FY09, a number of instances occurred where these caseflow-defined suspension events had a missing suspension end date. To reconcile this issue, the Court Researchers reviewed actual case files to determine whether the reports or notations related to the reports existed. Modifications were made to the data where appropriate.

- Similar to FY08, the Court experienced challenges in tracking the child welfare placement status. While not an overwhelming problem, the Juvenile Department is ensuring that when a child's placement changes multiple times prior to Adjudication all status changes are noted. This also requires a programming change to ensure that placement status is tracked. The ultimate status of the case, which determines whether a case is Shelter versus Non-Shelter for the caseload, is based on the 'last/final' placement of the child prior to Adjudication.

When issues are identified, court personnel take a multitude of steps to reconcile the inconsistencies such as listening to *CourtSmart*, contacting attorneys about the status of an issue, and meeting with clerks to resolve the issue. Also, DP is involved in reconciling questionable case information that is uncovered during the data quality review processes.

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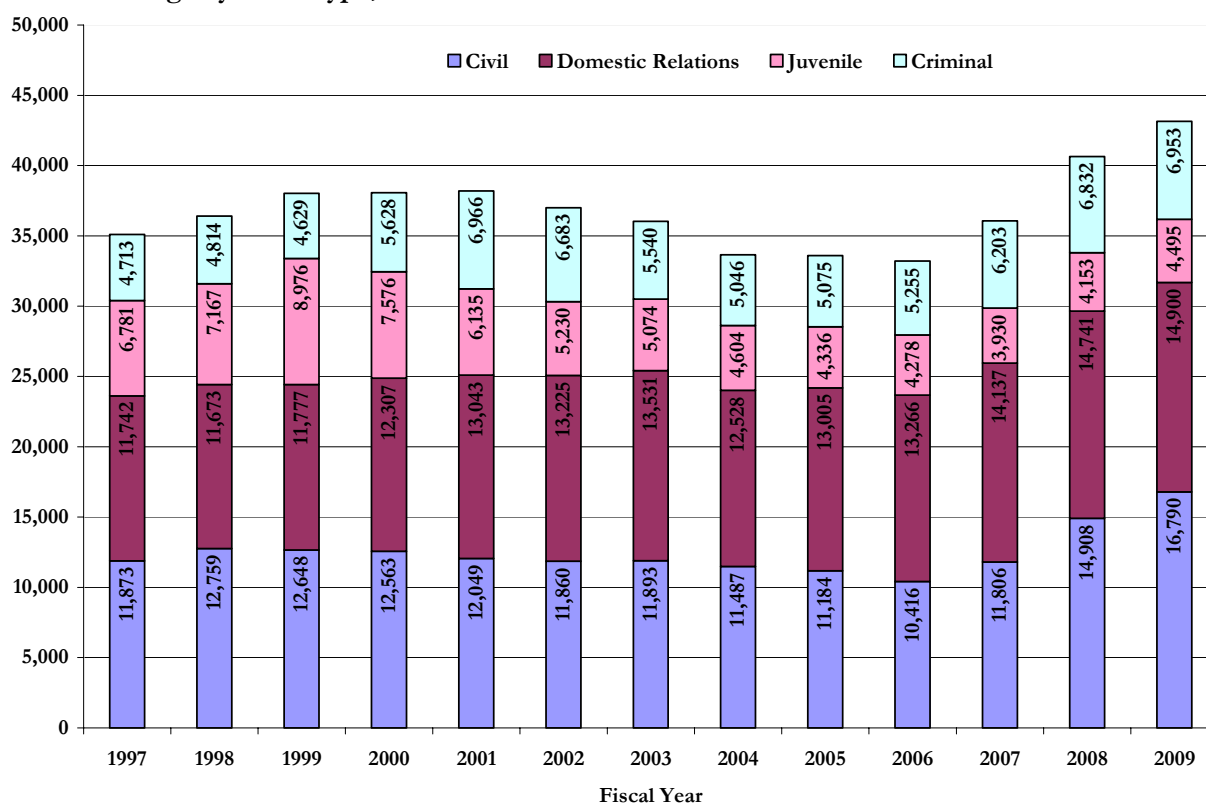
Workload Performance

Prior to discussing the case processing performance results, it is important to review the Court's workload for Fiscal Year 2009 (FY09). There are several measures of workload performance; however, those briefly discussed in this report include: filings, terminations, and the clearance rate. The charts highlighted below display the pattern of workload performance for the past 12 years.

Filings by Case Type, FY1997 – FY2009

Chart 1 reveals that filings across all case types increased between FY08 and FY09. The greatest increase in filings between FY08 and FY09 occurred among civil cases (13%) primarily due to increases in civil Track N cases. Track N civil filings increased by 37% between FY08 and FY09, and include but are not limited to foreclosure filings. The civil and domestic relations filing totals for FY09 are at their highest level since FY1997. Between FY97 and FY09, civil filings increased by 41%; domestic relations filings increased by 17%; juvenile delinquency filings increased by 24%; and criminal filings increased by 47%.

Chart 1 Filings by Case Type, FY1997-FY2009



Source: PERFONEW

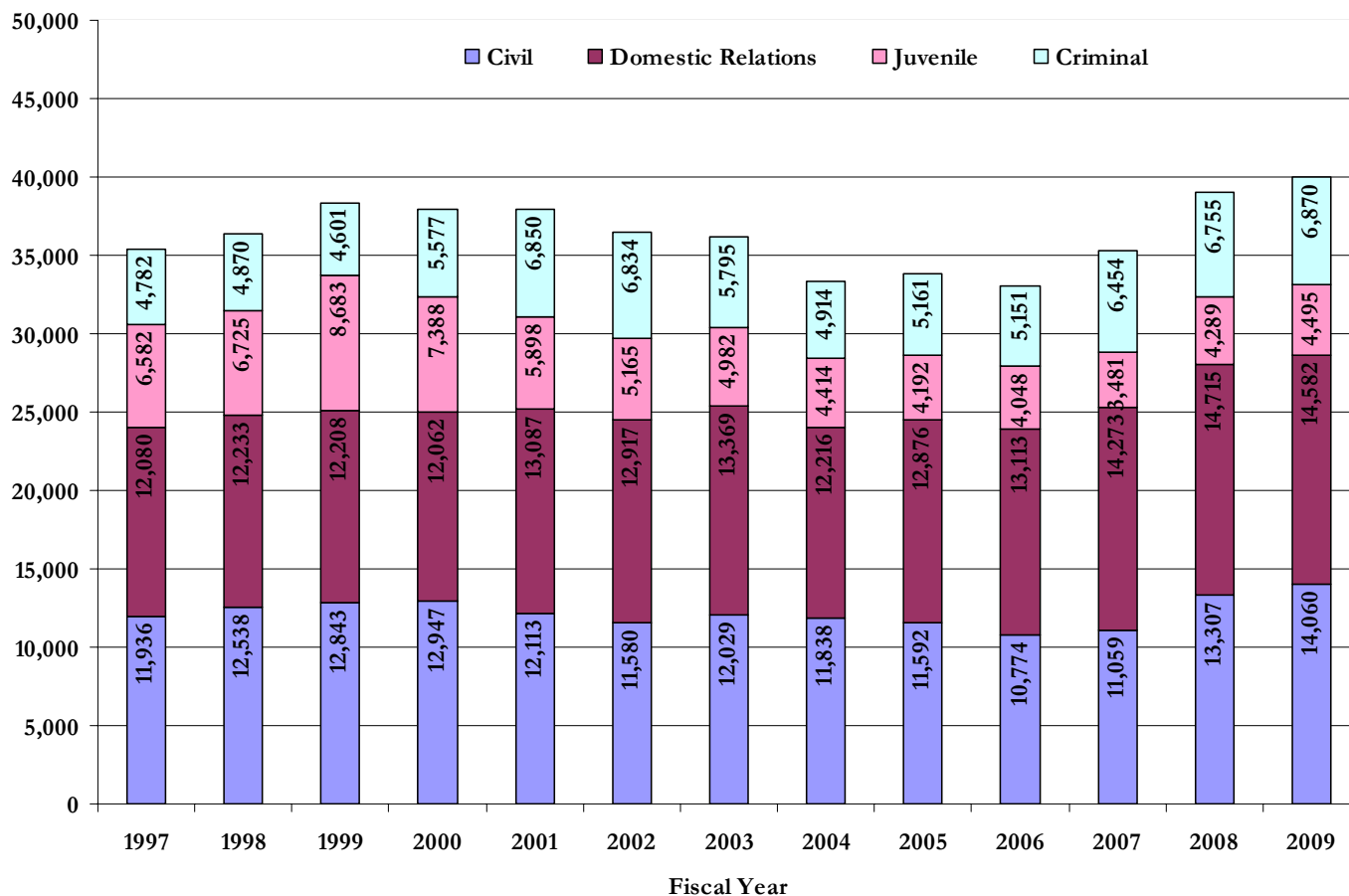
* Includes reopened filings and Register of Wills filings. Juvenile cases include the following case types: adoption, child in need of assistance, child in need of supervision, delinquency, guardianship, peace order, voluntary placement, and other unreported category. Juvenile data from FY1997 to FY2002 is from the Administrative Office of the Courts, Maryland Judiciary.

Terminations by Case Type, FY1997–FY2009

Chart 2 displays the total number of terminations by case type between FY1997 and FY2009. It is important to note that the terminations displayed will not mirror the terminations included in the case

processing analysis because the workload information includes reopened filings as well as filings for case sub-types that are excluded from the annual caseload analysis. For all case types except domestic relations (DR), terminations increased between FY08 and FY09. In particular, civil terminations increased by 6%, juvenile delinquency terminations increased by 5%, and criminal terminations increased by 2%. While civil cases experienced the greatest increase in filings between FY08 and FY09, it also experienced the greatest number of terminations during the same period. Since FY97, the greatest increase in terminations occurred among domestic relations cases (21%) followed by civil cases (18%).

Chart 2 Terminations by Case Type, FY1997-FY2009



Source: PERFONEW

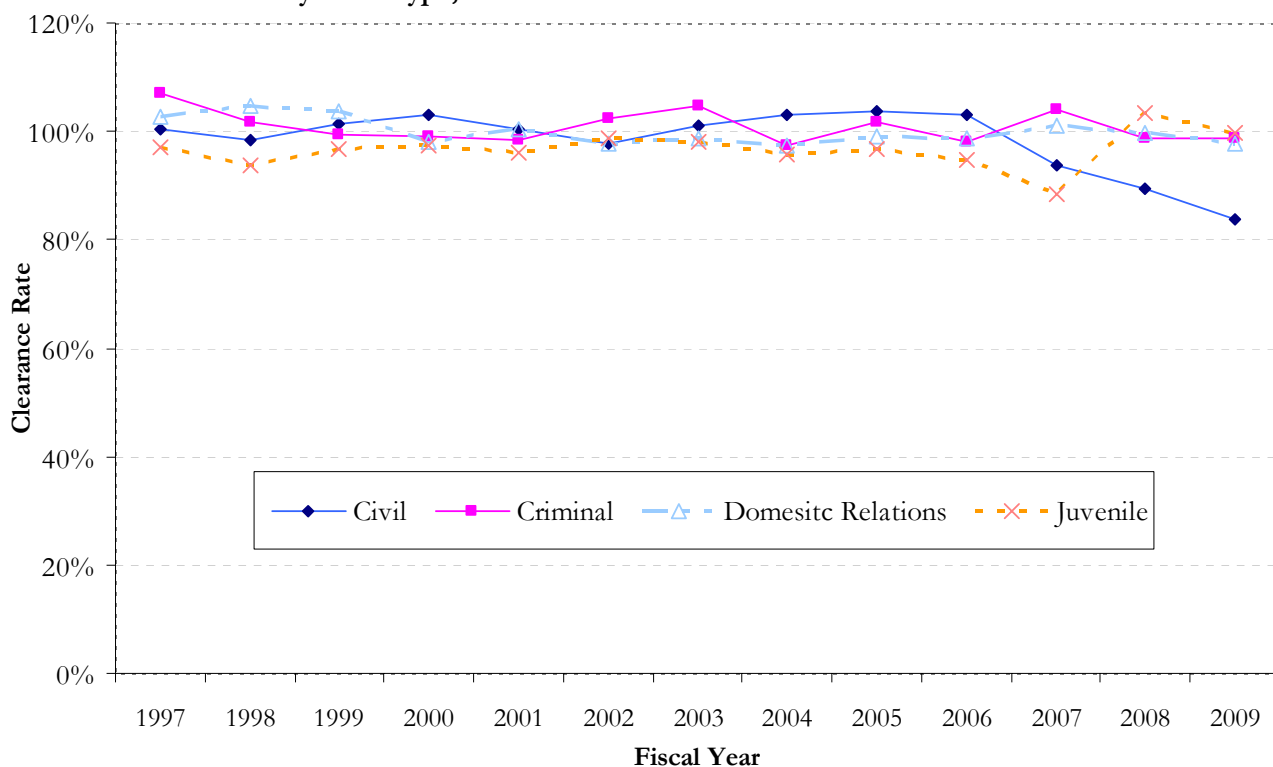
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Case Clearance Rate

The clearance rate is one of the workload measures used to assess how efficiently a court is processing its cases. The clearance rate, which is calculated by dividing the number of case terminations that took place for a given period of time by the number of filings for the same period, measures whether the court is keeping up with its incoming caseload or is unable to process efficiently the upcoming caseload, thus creating or increasing backlog. At a minimum, courts should strive to dispose of as many cases as have been filed and reopened in a period by having a clearance rate of 100%. The FY09 overall clearance rate that combined original and reopened cases for the Montgomery County Circuit Court is

93%. The clearance rate for original cases is 89% while that for reopened cases is 99%. As shown in Chart 3, for the past eight fiscal years, the Court has been able to maintain a clearance rate of close to 100% for three of the four major case types (civil, criminal, domestic relations and juvenile). Civil cases had a clearance rate that has been in decline since FY2007 from 103% in FY2006, 94% in FY2007, 89% in FY2008, and 84% in FY2009. The declined civil clearance rate is presumably due to increased filings that occurred during the same period as a result of the economic downturn and an increase in foreclosure filings. The Court is interested in identifying ways to improve the civil clearance rate, as well as to maintain and improve clearance for other case types by closing out more cases than are filed.

Chart 3 Clearance Rate by Case Type, FY1997-FY2009



Note: Clearance rates were calculated by using the data in PERFONEW.

* Includes reopened filings and Register of Wills filings. Juvenile cases include the following case types: adoption, child in need of assistance, child in need of supervision, delinquency, guardianship, peace order, voluntary placement, and other unreported category. Juvenile data from FY1997 to FY2002 is from the Administrative Office of the Courts, Maryland Judiciary.

Civil Case Terminations

Fiscal Year 2009 Case Terminations

A. Civil Case Processing Definitions and Summary

	Civil Case Time Definitions	Percent Within 18-month (548 days) Standard	Additional Montgomery County Measurements
Civil Case Standards and Montgomery County Measures	<u>Case Time Start:</u> Filing of case. <u>Case Time Stop:</u> Disposition, dismissal or judgment.	<u>State-Set Goal:</u> 98% <u>Montgomery County:</u> CY 2001: 95% CY 2002: 94% CY 2003: 94% FY 2005: 96% FY 2006: 95% FY2007: 94% FY2008*: 95% FY2009: 96%	<u>Filing to Service or Answer, whichever comes first:</u> CY 2001: 49 days CY 2002: 44 days CY 2003: 33 days FY 2005: 45 days FY 2006: 42 days FY 2007: 40 days FY2008: 41 days FY2009: 52 days <u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 291 days CY 2003: 285 days FY 2005: 206 days FY 2006: 209 days FY 2007: 222 days FY2008: 213 days FY2009: 226 days
Note: Civil case time is suspended for bankruptcy, non-binding arbitration, interlocutory appeal, body attachment, and military leave. * FY08 is based on a sample of 509 civil cases.			

Overall Civil Case Terminations

Table A.1 displays the number of original civil case terminations, as well as case processing performance by termination status for Fiscal Years 2004-2009 (FY04-FY09).⁴ The number of civil cases with original terminations in FY09 is 7,746, which reflects a 7% increase over FY08 (N = 7,243). The number of original civil case terminations has increased steadily over the past 4 fiscal years resulting in a 40% increase in original terminations since FY06. The distribution of case processing times ranged from 1 day for those cases that were filed and closed on the same day (510 cases) to 1,967 days (1 case). As shown in Table A.3, FY09 had the lowest maximum civil case processing time when compared to FY07 (6,038 days) and FY08 (4,158 days).

In FY09, 96% of civil cases closed within the 18-month standard (N = 7,425), which is a percentage point higher than FY08. In fact, closing 96% of civil cases within-standard has not been achieved since FY04. The overall average case time (ACT) increased slightly (by 13 days) between FY08

⁴ Please note that for FY08 a random sample of civil case terminations was analyzed, and therefore, the total number of sample cases is highlighted in Table A.1.

and FY09. The increase in the overall ACT appears to be due to an increase in the within-standard ACT from 176 days to 205 days between FY08 and FY09. The over-standard ACT decreased markedly between FY08 and FY09 by 236 days, which the Court attributes in part to data quality efforts undertaken by both the Office of the Clerk of the Court and Court Administration. It is also important to note that some of the decrease in the over-standard ACT may be due to the fact that the FY08 performance data is based on a sample of original civil case terminations as opposed to the entire population of FY08 terminations.

Between FY04 and FY07, the civil overall ACT increased by 12% from 198 to 222 days. This trend reversed between FY07 and FY08 when the overall ACT reduced by 9 days to 213 days (4%). A declining trend, however, did not continue between FY08 and FY09; in fact, during that period, the overall ACT increased to its highest level of 226 days since beginning to analyze case processing performance in FY04. The increase in the overall ACT between FY08 and FY09 is driven by the 16% increase in the within-standard ACT. As displayed in Table A.1, there was a 29-day increase in the within-standard ACT between FY08 and FY09. This increase in the within-standard ACT is likely due (in part) to a modification to the caseload time standards. Specifically, the case stop date for civil foreclosure cases was changed to align with the date of the final auditor's report as opposed to the final ratification of sale. In FY08, the Court analyzed the impact of this modification on case processing performance and found that while there was no change in the within-standard percentage statistic, the within-standard ACT increased by approximately 16 days. Thus at least 55% of the 29-day increase may be attributed to the change in foreclosure case stop dates and the remaining 13 days due to other reasons. Despite the increase, Montgomery County Circuit Court is very efficient at processing foreclosure cases. In FY09, 37% (N = 2,899) of the civil terminations are foreclosures (see Chart A.1), and the Court was able to close 97% of these cases within-standard. Given that Montgomery County ranks second highest in the number of foreclosure filings statewide behind Prince George's County,⁵ it is commendable that the Court continues to close the majority of not only foreclosure cases but also civil cases within-standard.

Table A.1 Number of Civil Case Terminations FY04 through FY09

Fiscal Year	Terminations		Within-Standard Terminations (18-month Standard)			Over-Standard Terminations (18-month Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY04	3,415	198	3,271	96%	173	144	4%	774
FY05	6,022	206	5,742	95%	173	280	5%	898
FY06	5,545	209	5,283	95%	174	262	5%	915
FY07	6,320	222	5,936	94%	173	384	6%	978
FY08**	509**	213	485	95%	176	24	5%	952
FY09	7,746	226	7,425	96%	205	321	4%	716

* ACT = Average Case Time, in days.

** The full civil caseload for FY08 is 7,243. The 509 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

Aside from the increase in the within-standard ACT in FY09, there was a marked reduction in the over-standard ACT from 952 to 716 days between FY08 and FY09. This decline in the over-standard ACT follows an initial decrease experienced between FY07 and FY08. Specifically, the over-standard ACT decreased by 3% (26 days) from 978 to 952 days between FY07 and FY08, and continued to decline in FY09 when the lowest over-standard ACT (i.e., 716 days) was experienced since collecting caseload data in FY04. Overall, FY09 civil case processing performance has made improvements in not only the number of cases terminating within-standard but also in the length of time to process over-standard cases.

⁵ Maryland Department of Housing and Community Development. October 2009. *Property Foreclosures in Maryland – Third Quarter 2009*. <http://www.mdhdc.org/Documents/PropertyForeclosureEventsinMaryland09Q3.pdf>

However, despite the improvements in civil case processing performance, the Montgomery County Circuit Court has yet to meet the within-standard goal of 98% set by the state. In addition, the declining civil clearance rate, which is not fully captured by caseload measures, is of concern. In order to fully understand the Court's case processing performance as well as to answer why the Court falls short of the civil time standard goal, additional analyses will need to be performed that focuses on case characteristics and case processing practices. For example, while the Court experienced a rather dramatic reduction in its over-standard ACT, it is not clear whether that is due to improvements in case processing practices or cases languishing in the system because of a backlog in processing.

Chart A.1 displays the percentage distribution of civil case sub-types for FY09. The most representative sub-types for FY09 are: foreclosure (37%), other law (18%), and contract (18%) cases. Similar results were obtained for FY08 wherein 40% of case sub-types were classified as foreclosures, 17% classified as other law, and 16% as contract.

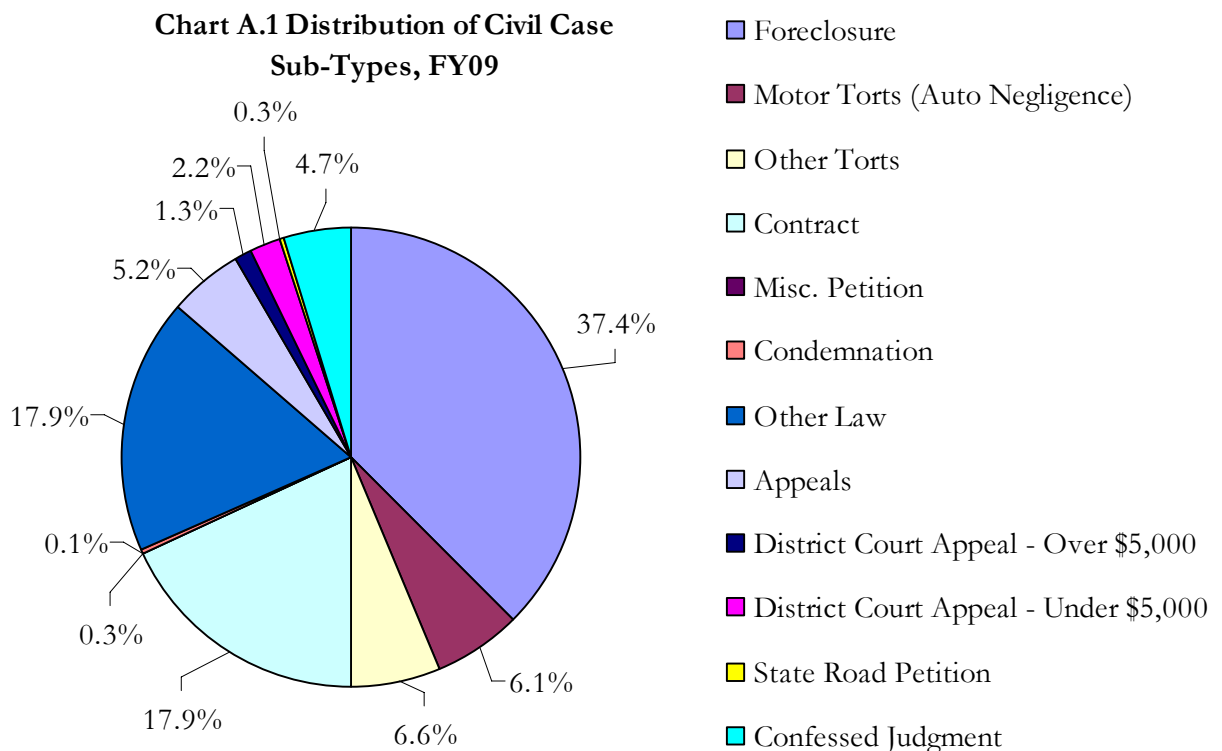


Table A.2 displays the distribution of civil sub-types by case termination status for FY09. Analyzing the case sub-types for over- and within-standard cases may provide direction on future analyses that should be conducted to better explain the Court's processing of civil cases. The table reveals that the three most represented case sub-types among over-standard civil cases are foreclosures (30%), contracts (22%) and other torts (21%). It is understandable that these sub-types are most frequently cited among over-standard and within-standard cases because foreclosures and other law cases represent over half of all civil terminations (37% and 18%, respectively). In contrast, contract cases are slightly over-represented among over-standard cases (22% in comparison with 18% overall). Torts (motor and other torts) are also over-represented among over-standard cases (37%) considering these sub-types occupy less than 13% of the FY09 case terminations. The last column of the table indicates that 55% of the civil sub-types met or exceeded the state goal of closing 98% of cases within the 548-day time standard. Of the five sub-types that failed to meet the goal, the case processing performance of three, including condemnations, other torts, and motor torts, is particularly far below the 98% goal. Given the relatively large number of case terminations, an investigation of how motor and other torts are processed may be warranted to identify possible efficiency gaps in the Court's processing of these civil cases. Data quality efforts may want to

focus on why such sub-types are closing at a higher percentage over-standard. Further, it may be interesting to examine how the distribution of sub-types impacts case processing time.

Table A.2 Distribution of Civil Case Sub-Types by Termination Status, FY09

Civil Case Sub-Type	Overall		Within-Standard		Over-Standard		% of Over-Standard/All Cases
	N	%	N	% of WST*	N	% of OST*	
Foreclosures	2,899	37%	2,802	38%	97	30%	3%
Motor Torts (Auto Negligence)	469	6%	419	6%	50	16%	11%
Other Torts	511	7%	445	6%	66	21%	13%
Contracts	1,388	18%	1,318	18%	70	22%	5%
Misc. Petitions	11	<1%	11	0%	--	--	--
Condemnation	25	<1%	21	0%	4	1%	16%
Other Law	1,387	18%	1,358	18%	29	9%	2%
Appeals	401	5%	396	5%	5	2%	1%
District Court Appeals - Over \$5,000	99	1%	99	1%	0	0%	0%
District Court Appeals - Under \$5,000	171	2%	171	2%	0	0%	0%
State Road Petition	21	<1%	21	0%	0	0%	0%
Confessed Judgment	364	5%	364	5%	0	0%	0%
Total	7,746	100%	7,425	100%	321	100%	4%

* WST: within-standard; OST: over-standard

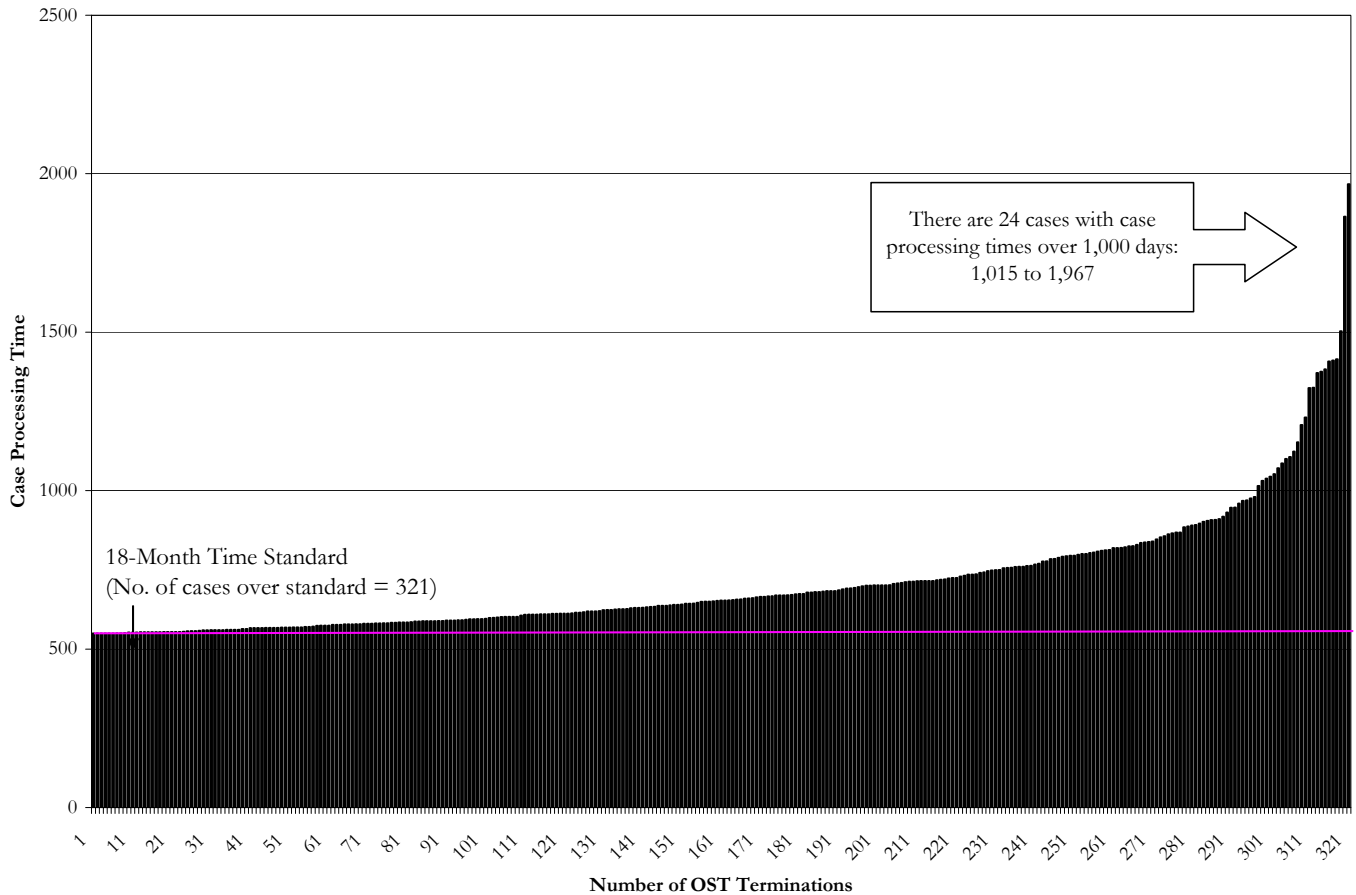
Table A.3 (see below) provides the distribution of case processing times among the 321 over-standard civil cases for FY09, FY08 and FY07. The distribution of over-standard cases between FY07 and FY09 is fairly comparable except among the 75th through 95th percentiles, as well as for the maximum value, which is substantially smaller in FY09 compared to FY07 and FY08. The FY09 mean (716 days) is 262 days shorter than the FY07 mean (978 days) and 236 days shorter than the FY08 mean (952 days). In addition, the median case processing time for FY09 (653 days) is markedly lower than that for FY08 (815 days) and FY07 (721 days), suggesting that the distribution of over-standard cases for FY09 is different, probably more compact than the FY07 or FY08 distribution. We also note that the FY09 median value is only slightly over 3 months above the 548 day time standard, which is noticeably lower than the median value for FY08 (almost 8 months above the time standard). Improvements in the maximum, mean, and median over-standard values suggest that the Court may have been able to minimize the number of civil cases that languish or “fall through the cracks” in FY09.

Of the 321 over-standard civil cases in FY09, approximately 25% closed within one month over the 548-day time standard (N = 81), and 75% closed approximately 7 months over the time standard (N = 241). Currently, 24 cases have clock times over 1,000 days ranging from 1,015 days to 1,967 days. The Court reviewed all civil over-standard cases with case processing times greater than 1,000 days to ensure that the case was properly disposed. Based on the Court’s review, modifications were made to the docket entries of some of these cases. For instance, two cases were removed from the FY09 assessment because they should have been closed in a previous fiscal year. Several of these over-standard civil cases contained multiple defendants, which made capturing the bankruptcy suspension event dates challenging because time is only suspended when the entire case goes inactive. It is important to note that not all courts are processing this caseload suspension event similarly. In particular, it appears that the majority of courts are suspending time for the bankruptcy suspension irrespective of whether the case is inactive. Other civil cases with case times over 1,000 days contained arbitration suspension events that required further review, and (at least) one required modification to the docket entries resulting in a reduction of case time. For other cases, the extremely long case times were accurate as a result of multiple deferrals of 2-507 Notices, (general) motions to stay, and complex cases such as Business & Technology.

Table A.3 Distribution of Over-Standard Civil Cases by Clock Time, FY09

Fiscal Year	N	(%)	Mean	Median	Percentile						Maximum
					5	10	25	75	90	95	
FY07	384	(100%)	978	721	558	567	616	954	1,710	2,662	6,038
FY08*	24	(100%)	952	815	558	565	612	986	1,255	3,438	4,158
FY09	321	(100%)	716	653	553	560	584	767	931	1,100	1,967

* FY08 figures are based on a sample of 509 civil cases.

**Figure A.1 Civil Case Terminations that are over the 18-month Standard, FY09**

Case Terminations by Track

Montgomery County Circuit Court's Differentiated Case Management (DCM) Plan established six tracks for civil cases. A brief description of each follows:

- Track 0: Legal cases with no discovery, or legal issues not requiring formal discovery. This track includes the following types of cases: District Court appeals, injunctions, mechanic's liens, restraining orders, administrative appeals, mandamus cases, declaratory relief, forfeiture (money or vehicles), landlord and tenant jury demands and appeals, and sale in lieu of partition (excluding divorce). (N = 1,156)
- Track 2: Expedited – ½ day to 1 day trial estimate. This track (primarily) includes the following types of cases: workers' compensation and civil jury demands from the District Court. (N = 1,440)
- Track 3: Routine – 1 to 3 day trial estimate. This track includes the following types of cases: auto negligence-personal injury and property damage, negligence-personal injury, property damage, and slip and fall, breach of agreement, breach of contract, negligent entrustment,

violation of rights, defamation of character-negligence, wrongful discharge, etc. (N = 1,155)

Track 4: Complex – 3 or more days trial estimate. This track includes the following types of cases: medical malpractice, legal malpractice, abuse cases, fraud cases, defamation of character, etc. (N = 159)

Track 5: Expedited – business and technology immediate service. (N = 2)

Track 6: Standard – business and technology standard. (N = 16)

Track N: Administratively tracked/non-litigation. For FY09, the majority of Track N civil cases consist of foreclosures (76%) followed by other law cases (14%). (N = 3,818)

Table A.4 displays data on case processing for within- and over-standard civil cases by DCM track. As the first section of the table shows, almost 50% of the terminated cases were Non-Tracked cases. Tracks 0, 2, and 3 represented 15%, 19%, and 15% of the civil cases terminated in FY09, respectively. The cases from these four tracks comprised approximately 98% of the FY09 civil terminations whereas Track 4 comprised only 2% of the case terminations. Further, cases assigned to Tracks 5 or 6 constitute less than 1% of the civil terminations. The overall ACT for FY09 civil cases is 226 days. Track 5 cases have the highest ACT at 654 days, followed by cases assigned to Tracks 6 and 4 (522 and 427 days, respectively). It is important to note that there were only 2 cases assigned to Track 5 and 16 cases assigned to Track 6. Track 4 cases, which represent about 2% of the civil cases terminated in FY09, have five case times longer than 1,000 days ranging from 1,038 to 1,325 days. Given these five outliers in the Track 4 data, the median case processing time was calculated (results not displayed in report tables). The median analysis reveals the same pattern as the mean analysis in that Track 5 cases has the highest median value at 654 days followed by Track 6 cases (530 days) and Track 4 cases (442 days). Track 0 cases have the shortest ACT at 112 days, and a median case time of 75 days.

Of the cases constituting 98% of all the FY09 civil terminations (i.e., Tracks 0, 2, 3, and N), Tracks 0 and 2 cases met the state compliance rate of 98% case closures within-standard. Track N almost met the state compliance standard with a within-standard percentage of 97%. These findings are similar to those achieved in FY08. Specifically, in FY08, Track 0 cases met the state defined time standard goal whereas cases assigned to Tracks N and 2 approached the goal. Similar to the past four fiscal years, Track 3 cases in FY09 carry a large percentage of over-standard cases (i.e., 38%). In FY09, Track 3 had the largest percentage of over-standard cases compared to FY08 when Track N had the largest percentage at 38%. For the past several fiscal years, Track 4 cases appear to be particularly problematic in that cases assigned to this Track have the lowest within-standard and highest over-standard percentage.⁶ In particular, only 2% of civil cases are assigned to Track 4; however, 35% of these cases are over-standard. In contrast, for Tracks 0, 2, 3, and N (i.e., the most populous tracks), no more than 11% of the cases are over-standard.

In FY09, cases assigned to Tracks 3, 4, and N account for 85% of the over-standard cases, which is similar to the finding obtained for FY08. One potential way to improve the efficiency of civil case processing for FY10 may be to focus on cases assigned to Tracks 3, 4, and N as these cases seem to have been of particular concern for the past two fiscal years. If all 220 Track N and Track 3 cases were to close within-standard, the Circuit Court would have achieved the state-defined time standard goal of closing 98% of civil cases within-standard. Track 3 cases are also over-represented among over-standard cases given their presence among overall terminations (38% in over-standard terminations, 15% overall). As noted above, a closer examination of Track 4 cases may be equally important as they are also over-represented among over-standard cases (17% in over-standard terminations versus 2% in the overall terminations). In fact, while most cases maintained their performance level across DCM Tracks for the past three fiscal years, Track 4 cases have experienced a steady decline in performance. Seventy-three percent of Track 4 cases closed within-standard in FY07, 69% closed within-standard in FY08, and 65%

⁶ It is important to note that this statement is made based on a comparison against other DCM Tracks that have greater than 20 cases assigned.

closed within-standard in FY09. {Note: The total number of Track 4 civil cases declined between FY07 and FY09 by 16% from 189 in FY07 to 159 in FY09. There are also a higher percentage of over-standard Track 4 cases in FY09 as compared to FY07.} Overall, improvements made in the processing performance of cases assigned to Tracks 3, 4, and N will contribute to an overall improvement in case processing efficiency.

Table A.4 FY09 Civil Case Terminations by Termination Status (Within or Over the 18-month Standard) and Track

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 0	1,156	15%	112	1,148	99%	16%	107	8	1%	2%	765
Track 2	1,440	19%	219	1,412	98%	19%	209	28	2%	9%	754
Track 3	1,155	15%	333	1,033	89%	14%	289	122	11%	38%	706
Track 4	159	2%	427	104	65%	1%	261	55	35%	17%	741
Track 5	2	<1%	654	0	0%	---	---	2	100%	1%	654
Track 6	16	<1%	522	8	50%	<1%	293	8	50%	2%	752
Track N	3,818	49%	221	3,720	97%	50%	208	98	3%	31%	696
Total	7,746	100%	226	7,425	96%	100%	205	321	4%	100%	716

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

The largest discrepancy in ACT between cases that terminated within-standard and those that terminated over-standard occurred within Track 0 cases. Overall, the ACT for Track 0 cases was 112 days. The vast majority (99%) of Track 0 cases closed within-standard, with an ACT of 107 days. The remaining 1% of Track 0 cases averaged 765 days, over 7 times as long as the within-standard ACT. The case processing times for the over-standard Track 0 cases range from 541 days to 1,415 days. The case with a processing time of 1,415 days was over-standard primarily due to the fact that the case was stayed pending judicial review for approximately 1,029 days. Despite the fact that the case was in an “inactive” status, time is not suspended because judicial review is not a valid caseflow suspension event. With only 8 Track 0 cases closing over-standard, an extremely long case time can have a negative (skewed) effect on the calculation of ACT.

Case Terminations by Trial Postponements

As shown in Table A.5, 214 cases had trial postponements, constituting only 3% of all the civil terminations for FY09, which is equivalent to the 3% achieved for FY08. Of the cases with trial postponements, almost three-fourths (74%) closed within-standard. In addition, Track 0 and N cases with trial postponements met the time standard goal of closing 98% of cases within 548-days. Similar to FY08, only half of the Track 3 postponed cases closed within-standard. Similar to FY07 and FY08, the average case time among over-standard civil cases without trial postponements in FY09 is higher than for those cases with trial postponements (718 days and 704 days, respectively). The only instances in which this is not the case is for Track 4 and Track 6 cases. In particular, the over-standard ACT for Track 4 cases with trial postponements is 772 days whereas the over-standard ACT for Track 4 cases without trial postponements is 731 days. In contrast, among Track 3 cases, the ACT for over-standard cases with trial postponements is less than that of the over-standard Track 3 cases without postponements (664 days versus 721 days). Among over-standard Track 3 cases without trial postponements (N = 90), 33% are motor torts, 28% are other torts, 31% are contracts, 7% are other law, and 1% is condemnation. There are a total of 265 cases without postponements that closed over-standard, and the majority of these cases are foreclosure (37%, N = 97) followed by contract (20%, N = 52) and other law (19%, N = 51) cases. Based on this preliminary analysis it appears that cases without trial postponements have a slightly longer case time than cases with trial postponements. The Court may want to undertake additional analyses to examine whether certain issues such as delay in serving parties, postponements of hearings, and/or failure

to set a trial date or removing a trial date and then not rescheduling the trial, impacted case time given that trial postponements are not the primary culprit.

Table A.5 FY09 Civil Case Terminations by Trial Postponements, Termination Status (Within or Over the 18-month Standard), and Track

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	1,156	60	5%	140	59	98%	131	1	2%	624
Track 2	1,440	63	4%	401	56	89%	359	7	11%	742
Track 3	1,155	64	6%	573	32	50%	481	32	50%	664
Track 4	159	20	13%	671	7	35%	483	13	65%	772
Track 5	2	0	---	---	---	---	---	---	---	---
Track 6	16	3	19%	772	0	0%	---	3	100%	772
Track N	3,818	4	<1%	272	4	100%	272	0	0%	---
Total	7,746	214	3%	407	158	74%	302	56	26%	704
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	1,156	1,096	95%	110	1,089	99%	106	7	1%	785
Track 2	1,440	1,377	96%	211	1,356	98%	202	21	2%	757
Track 3	1,155	1,091	94%	319	1,001	92%	283	90	8%	721
Track 4	159	139	87%	392	97	70%	245	42	30%	731
Track 5	2	2	100%	654	0	0%	---	2	100%	654
Track 6	16	13	81%	465	8	62%	293	5	38%	740
Track N	3,818	3,814	>99%	221	3,716	97%	208	98	3%	696
Total	7,746	7,532	97%	221	7,267	96%	203	265	4%	718

* ACT = Average case time, in days.

As noted in previous years' reports, the relationship between trial postponements and case processing status is complicated. Table A.5 shows that the majority of civil cases with trial postponements closed within-standard. Among over-standard cases that had trial postponements, at least 50% were from either Track 3 or Track 4. It is important to note, however, that overall, there were very few over-standard civil cases with trial postponements in FY09 (approximately 17% of all over-standard civil cases). Trial postponements did not entirely explain why Track 3 and Track 4 cases were more likely to close over-standard. Eight percent of Track 3 cases and 30% of Track 4 cases that were not postponed still closed over the 548-day time standard. The percentage of cases without trial postponements in Tracks 0, 2, and N that closed over-standard ranged from 1% to 3%.⁷ Possible reasons for cases to close over-standard in the absence of trial postponements include: recurring pre-trial settlement hearings or continuous deferrals of 2-507 Notices.

A counter-intuitive finding from the past two fiscal years relates to the over-standard ACT of Track N cases without trial postponements. In FY07 and FY08, the over-standard ACT of Track N cases without trial postponements, which was over 1,000 days, was the highest ACT among over-standard cases including both those with and without trial postponements. In the FY08 Caseflow Assessment Report it was suggested that since Track N cases include foreclosures, this markedly high ACT was possibly due to

⁷ Given the small number of over-standard Track 5 and Track 6 cases without trial postponements (N = 2 and N = 13, respectively), caution should be exercised when drawing conclusions from the analysis of these cases.

the inability to exclude suspension time when a discharge from bankruptcy was not obtained in a case (in FY08, 98% of Track N cases that closed over-standard without any trial postponements were foreclosures). In FY09, the over-standard ACT for Track N cases without trial postponements was 696 days, which is much smaller than the FY07-08 averages. A possible explanation for this reduction is that a change was made to the FY09 civil case time standards allowing the dismissal (i.e., case stop) date to be used as the suspension end date (in certain circumstances). If this explanation is true, it does appear that slight changes to the time standards can have a noticeable impact on performance results, and courts should keep in mind such changes to the time standards when interpreting their performance results.

Case Terminations by the Number of and Reasons for Trial Postponements

Among FY09 civil cases with trial postponements, 87% (FY08: 71%) have only one, 11% (FY08: 24%) have two, and approximately 2% (FY08: 4%) have three or more postponements (see Table A.6). Over three-fourths of the over-standard civil case terminations that have trial postponements (77%) are postponed only once. Similar to previous fiscal years, as the number of trial postponements increases from 1 to 2 in FY09 so to does the percentage of cases closing over-standard from 23% to 48%. It appears that compared to previous years performance, the Court was able to reduce the number of cases with multiple postponements, which are more likely to result in over-standard terminations than those with a single trial postponement. An additional analysis may be needed to identify factors other than trial postponements associated with over-standard terminations.

Table A.6 Postponed Civil Cases by the Number of Trial Postponements and Termination Status, FY07-09

Number of Postponements	All Cases				Within-Standard Cases				Over-Standard Cases				% of Over-Standard/All Cases		
	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09		FY08*	FY07			
	N	%	%	%	N	%	%	%	N	%	%	%	FY09	FY08*	FY07
1	187	87%	71%	79%	144	91%	77%	87%	43	77%	50%	58%	23%	17%	21%
2	23	11%	24%	14%	12	8%	15%	12%	11	20%	50%	18%	48%	50%	38%
3	3	1%	6%	7%	2	1%	8%	1%	1	2%	0%	22%	33%	0%	87%
4+	1	<1%	0%	< 1%	0	---	0%	0%	1	2%	0%	2%	100%		100%
Total	214	100%	100%	100%	158	100%	100%	100%	56	100%	100%	100%	26%	24%	29%
% Postponed		3%	3%	3%		2%	3%	3%		17%	17%	16%			

Note: Percentages do not always add to 100% due to rounding.

* FY08 figures are based on a sample of 509 civil cases.

Table A.7 provides the distribution of the 246 trial postponement reasons for the 214 cases that were postponed at least once and the 72 reasons for the subset of 56 cases with trial postponements that closed over-standard. The most frequently cited trial postponement reasons among all cases with trial postponements include: “Calendar Conflicts – Party Needs To Get Affairs in Order” (20% all cases; 19% over-standard cases); “Illness, Medical Emergency Or Death” (22% all cases; 26% over-standard cases), and “Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare” (20% all cases, 32% over-standard cases). As a good practice it appears that the Court needs to assess whether MD Rule 2-508 related to “continuance” is being rigorously applied.

Table A.7 Reasons for Trial Postponements by Termination Status for Civil Cases, FY09

	Reason for Trial Postponement	All Cases		Over-Standard Cases		% Over-Standard/All Cases
		N	(%)	N	(%)	
1	Calendar Conflict – Party Needs to Get Affairs in Order	50	20%	14	19%	28%
2	Illness/Medical Emergency or Death	53	22%	19	26%	36%
3	Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	48	20%	23	32%	48%
4	Vacation Plans/Religious Reasons	16	7%	3	4%	19%
5	Witness Unavailable – New Witness Identified	28	11%	6	8%	21%
6	New Complaint, Petition, 3rd Party Complaint, or Consolidation					
	Pending/Complaint Not at Issue or Ripe	7	3%	2	3%	29%
7	Case Not Reached or Was on the To-Be-Assigned Docket and Not Reached	6	2%	---	---	---
8	New Counsel Sought or Has Entered their Appearance or Not Appointed	14	6%	1	1%	7%
9	Settlement, Plea or Reconciliation in Progress	7	3%	1	1%	14%
10	Judge Unable to Reach Court Event (e.g., Illness, Scheduling Conflict)	6	2%	2	3%	33%
11	Increase/Decrease Court Time/Track Change/to Trail Behind Another Case	1	<1%	---	---	---
12	Party(s) Did Not Receive Notice Of Court Date	5	2%	---	---	---
13	Pending Motions to Be Heard or Ruled on	3	1%	1	1%	33%
14	Preliminary Motions or Jury Selection	2	1%			
	Total	246	100%	72	100%	

Note: Percentages do not always add to 100% due to rounding.

Summary of Civil Findings

- A total of 7,746 civil cases had original terminations in FY09 with an average case time (ACT) of 226 days. The overall ACT for civil cases closed in FY09 was 13 days higher than what was achieved in FY08.
- Ninety-six percent of civil cases closed in FY09 were within the 18-month time standard (548 days). The ACT among within-standard cases was 205 days compared to 716 days for over-standard cases.
- Since FY04, the Circuit Court has consistently closed over 90% of its civil cases within-standard. However, despite this level of stability in within-standard civil case processing, Montgomery County Circuit Court has yet to meet the within-standard goal of 98% set by the state.
- Civil cases from Tracks 0, 2, 3, and N comprise 98% of all the FY09 civil case closures. Cases assigned to Tracks 0 and 2 met the state compliance rate of 98% case closures within-standard.
- Similar to the past four fiscal years, Track 3 cases in FY09 carry a large percentage of over-standard cases (i.e., 38%). Of additional importance is that while only 2% of civil cases are assigned to Track 4, 35% of these cases are over-standard.
- In terms of civil case sub-types, improving the case processing performance of tort cases (motor torts and other torts), which are over-represented among over-standard cases, appears to be the key. For FY09, 37% of these cases were over-standard, whereas they occupied only 13% of the overall case terminations.

- Of the 7,746 civil cases with original terminations in FY09, 214 (3%) cases had trial postponements, which is equivalent to the 3% achieved for FY08. Of the cases with trial postponements, almost three-fourths (74%) closed within-standard. At least half of the Track 3 and Track 4 postponed cases closed over-standard.
- Among FY09 civil cases with trial postponements, 87% (FY08: 71%) have only one, 11% (FY08: 24%) have two, and approximately 2% (FY08: 4%) have three or more postponements.

Recommendations for Future Civil Analyses

- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases perform against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to reverse a declining trend.
- Review cases that have closed over-standard without having their trial postponed. Similar to the past 3 fiscal years, the ACT of over-standard civil cases without trial postponements is higher than those over-standard cases with trial postponements. Other factors such as pre-trial postponements, continual deferrals of case dismissals via MD Rule 2-507 and the scheduling of pre-trial settlement conferences may provide insight into reasons for inefficiencies in case processing outside of trial postponements.
- Examine whether certain civil sub-types consistently close within-/over-standard and, if so, examine whether there are efficiency gaps in the Court's civil case processing. It also may be useful to examine those civil sub-types that represent a small percentage of the civil caseload but a larger percentage of over-standard cases (i.e., torts).
- Improve the case processing for Track 3 and Track N cases. These cases have large terminated caseloads and are over-represented among the over-standard terminations. It may be equally important to further improve the efficiency of case processing for Track 4 cases.
- Examine the use of "general stays" in civil cases and their impact on the civil case processing performance. While certain inactive periods such as bankruptcy, non-binding arbitration, body attachments, and military leave are considered as case time suspensions, time associated with "general stay" orders are not excluded from the calculation of case time. It is important to explore the impact of these stays on case processing performance.

Recommendations to the Circuit Court Time Standards Sub-Committee

- Questions have been raised about whether other suspension events, which render a case inactive, should be included in the Caseflow Time Standards. For example, it is recommended that time is suspended when a case cannot proceed because it is waiting for a decision from the: Federal Court, Attorney General's Office, another jurisdiction, or the Court of Special Appeals (in another case). It is also recommended that case time be suspended in a case where a party has been placed in receivership pending an order of rehabilitation (similar to the bankruptcy suspension).
- Statewide discussion on the impact of foreclosure filings on civil case processing may be needed. Given the current economic climate and the fact that, as of the third quarter of 2009, Maryland ranked 12th highest in property foreclosures nationwide, the Judiciary may want to host a statewide discussion about how increases in foreclosure filings have impacted case processing performance and court management practices. Based on commentary provided by courts across the state, civil case processing performance has been impacted. For some courts, the impacts have been negative while others have experienced improvements or no-changes in performance. It may be useful for courts to have the opportunity to share how they've adapted (or not) to the surge in filings. Of interest is also an analysis of the impact of the foreclosure legislation that extended the foreclosure

period from 15 to 150 days on foreclosure filings and courts' foreclosure caseload, which was implemented in September 2008.

- Aligning suspension time with the active/inactive status of a case is requested to accurately measure the case processing time. Currently, discrepancies exist when suspension time is subtracted from case processing time. Montgomery County Circuit Court only subtracts suspension time when the case goes 'inactive' as a result of one of the caseload-defined suspension events. In contrast, other courts subtract suspension time irrespective of the status (i.e., active or inactive) of the case. It is requested that the Time Standards Sub-Committee review this issue as a means to standardize the way suspension time is subtracted from the calculation of case time with all of the courts.

Criminal Case Terminations

Fiscal Year 2009 Case Terminations

B. Criminal Case Processing Definitions and Summary

	Criminal Case Time Definitions	Percent Within 6-month (180 days) Standard	Additional Montgomery County Measurements
Criminal Case Standards and Montgomery County Measures			<u>Arrest/Service to Filing:</u> CY 2001: 121 days CY 2002: 138 days CY 2003: 124 days FY 2005: 125 days FY 2006: 121 days FY 2007: 112 days FY 2008*: 116 days FY 2009†: 104 days
	<u>Case Time Start:</u> First appearance of defendant or entry of appearance by counsel <u>Case Time Stop:</u> Disposition (PBJ, Stet, NP, NG, Sentencing, NCR finding)	<u>State-Set Goal:</u> 98% <u>Montgomery County:</u> CY 2001: 96% CY 2002: 91% CY 2003: 90% FY 2005: 90% FY 2006: 90% FY 2007: 89% FY 2008*: 86% FY 2009†: 96%	<u>Filing to First Appearance:</u> CY 2001: 12 days CY 2002: 18 days CY 2003: 15 days FY 2005: 19 days FY 2006: 18 days FY 2007: 15 days FY 2008*: 17 days FY 2009†: 13 days <u>Verdict to Sentence:</u> CY 2001: 24 days CY 2002: 46 days CY 2003: 51 days FY 2005: 108 days FY 2006: 88 days FY 2007: 97 days FY 2008*: 75 days FY 2009†: 99 days <u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 89 days CY 2003: 89 days FY 2005: 86 days FY 2006: 84 days FY 2007: 92 days FY 2008*: 94 days FY 2009†: 77 days

Note: Criminal case time is suspended for failure to appear/bench warrant, mistrial, NCR evaluation, competency evaluation, petition for reverse waiver, interlocutory appeal, military leave, pre-trial sentencing treatment, psychological evaluation, and DNA/Forensic testing.

* FY08 results are based on a sample of 505 criminal cases.

† For the FY09 Assessment, Criminal Time Standard was changed to measure the case time from the first appearance to verdict rather than disposition. Additional measures are calculated by Data Processing based on its sample except for the average case processing time.

Overall Criminal Case Terminations

The number of original criminal case terminations during Fiscal Year 2009 (FY09) was 2,478, which is 126 fewer (5%) than the FY08 level. Table B.1 summarizes the Court's criminal case processing performance for FY04 through FY09. For FY09, the Criminal Time Standard was modified to measure case time from the first appearance to verdict instead of sentencing, and this change is the primary reason for the improved case processing time for FY09; the percent of cases closed within the 6-month standard was 96%, a 10-percentage point increase from the FY08 level. When the old case time standard was applied to the FY09 data, 88% (preliminary) of the cases were terminated within the standard, which is equivalent to the FY06-07 level.

The overall average case time (ACT) in FY09 was 77 days based on the new standard and 93 days based on the old standard. The ACT among the within-standard cases was 68 days for FY09, equivalent to the FY08 level. The ACT for the cases with over-standard terminations was reduced to 270 days (279 according to the old standard). It is important to note that the lengthier overall, within-, and over-standard FY09 ACT using the old standard may be due in part to the fact that suspension times for Pre-Sentencing Investigations and Pre-Sentence Treatment Programs were not excluded from the calculation of case time.

Table B.1 Number of Criminal Case Terminations, FY04-09

Fiscal Year	Terminations		Within-Standard Terminations			Over-Standard Terminations		
	N	ACT*	N	%	ACT*	N	%	ACT*
FY04	2,035	94	1,852	91%	63	183	9%	402
FY05	2,383	86	2,155	90%	65	228	10%	286
FY06	2,481	84	2,239	90%	65	242	10%	260
FY07	2,485	92	2,205	89%	66	280	11%	295
FY08**	(505)	95	(435)	86%	69	(70)	14%	254
FY09†	2,487	77	2,372	96%	68	106	4%	270
FY09‡	2,487	93	2,191	88%	69	286	12%	279

Maryland criminal case time standard and goal: 6 months and 98% within-standard terminations

* ACT = average case time, in days.

** The full criminal caseload for FY08 was 2,613. The 505 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

† The FY09 case processing performance was measured based on the new time standard with a new case stop date on verdict.

‡ The FY09 results based on the old case time standard (preliminary).

Thus the FY09 case processing performance, when measured against the old time standard, is virtually identical to that of FY08, except for the slight decline in the number of terminations and the noticeable increase in the over-standard ACT, and the Court was unable to improve its performance to the FY04-06 level where 90% of the cases were terminated within the standard.

Table B.2 Distribution of Over-Standard Criminal Cases by Clock Time and Track, FY07-09

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	280	295	227	183	187	197	291	362	473	6,728
FY08*	70	254	224	182	187	200	265	390	448	514
FY09	106	270	238	184	187	203	295	376	526	656

*FY08 figures are based on a sample of 505 criminal cases.

Table B.2 and Figure B.1 present the distribution of over-standard cases for FY07, FY08 and FY09. The FY09 percentile figures are comparable to FY07 and FY08, in particular the 5th through 25th percentiles. The lack of cases with extremely long case times (such as the one observed in FY07) in FY09 may be an indication that the Court has completed processing cases that 'fell through cracks'; however, this may be due to the time standard change that now allows courts to take time for suspensions without

valid suspension-end events in a case when the case was eventually nolle prossed or dismissed. As shown in the figure, there is a disjuncture in the distribution of over-standard cases around 95th percentile where the case time jumps from the upper 300s to upper 400s. It would be of interest to examine these cases and identify factors associated with their extraordinarily long case time. Regarding the other end of the spectrum of over-standard cases, approximately 10% of the FY09 over-standard cases (approximately 10 cases) were closed within a week past the 6-month time standard. As part of improving the criminal case processing performance, it may be worthwhile for the Court to investigate these cases, identify factors that led to their over-standard terminations, and develop strategies to prevent similar cases from closing over-standard.

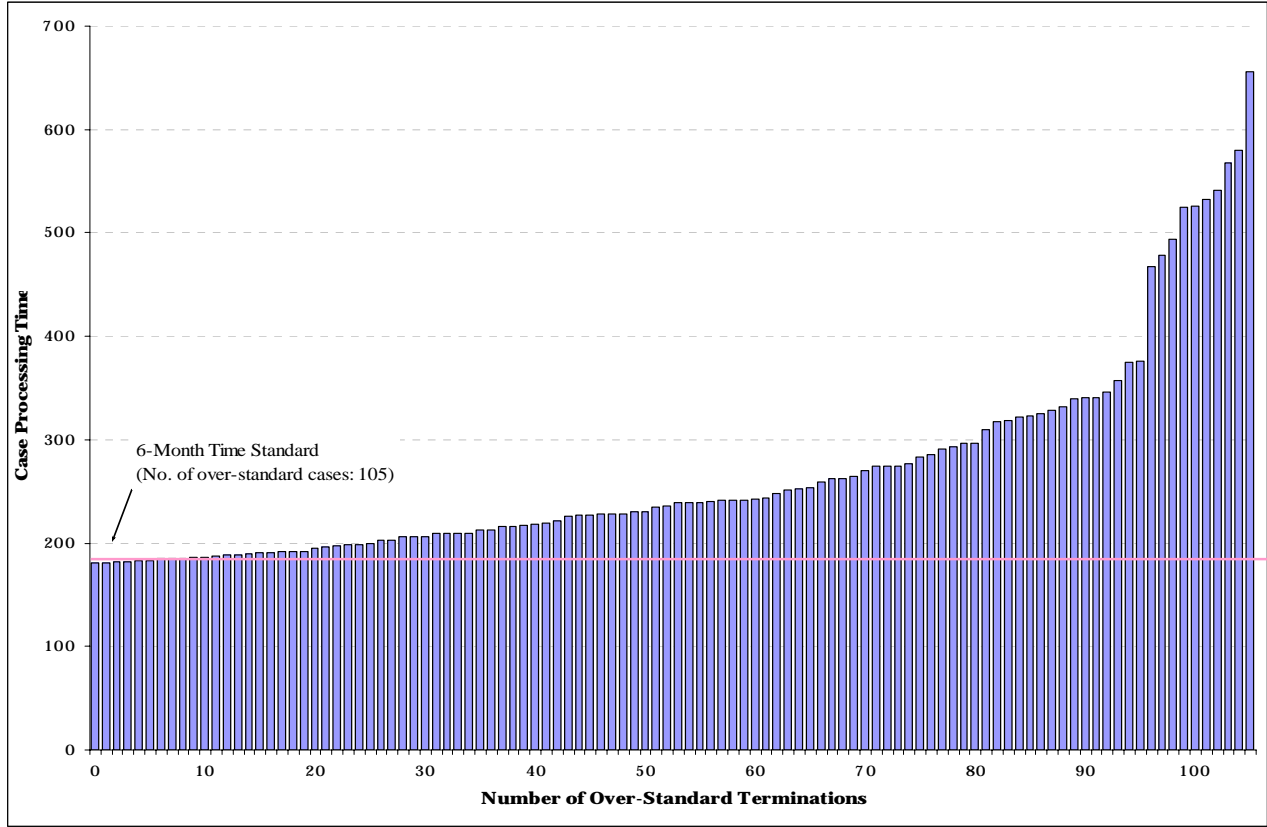


Figure B.1 Criminal Case Terminations that are over the 6-month standard, FY09

Case Terminations by Track

Montgomery County Circuit Court’s Differentiated Case Management (DCM) Plan currently has the following 5 tracks for criminal cases:

- Track 0: Information little or no discovery (61 cases)
- Track 1: District Court jury demands and appeals (1,159 cases)
- Track 2: Routine, defendant locally incarcerated (352 cases)
- Track 3: Routine, defendant on bond/writ status (597 cases)
- Track 4: Complex (309 cases)

Table B.3 presents the breakdown of the FY09 criminal case terminations by the criminal DCM track and track-specific case-processing performance measures (ACT for within- and over-standard terminations and the percent of cases closed within-standard). As the first section of the table shows, 47% of the terminated cases were Track 1, 24% Track 3, 14% Track 2, and 12% Track 4. The percentage

distribution by Track for FY09 is fairly comparable to that in FY08 and FY07 where Track 1, 2, and 3 cases cover about 85% of all the criminal terminations.

Table B.3 FY09 Criminal Case Terminations by Termination Status (Within or Over the 6-month Standard) and Track

	Total Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT	N	% of OST*	% of Track	ACT
Track 0	61	2%	63	61	3%	100%	63	0	0%	0%	0
Track 1	1,159	47%	33	1,155	49%	>99%	33	4	4%	<1%	206
Track 2	352	14%	103	345	15%	98%	101	7	7%	2%	199
Track 3	597	24%	107	562	24%	94%	99	35	33%	6%	238
Track 4	309	12%	154	249	10%	81%	118	60	57%	19%	301
Total	2,478	100%	77	2,372	100%	96%	68	106	100%	4%	270

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding

In FY08, over 70% of the over-standard cases were cases in Track 3 (37%) or Track 4 (36%) and 19% were in Track 2. In FY09, 80% of over-standard cases were Track 3 (33%) or Track 4 (57%), and only 7% of the over-standard cases were found in Track 2. Since the distribution of criminal cases by track did not change substantially, it appears that the change in the criminal case time standard resulted in more complex cases, which tend to take more time to reach verdicts, still remaining over-standard whereas less complex cases that were over-standard are now becoming within-standard, assuming that the Court's track-specific case processing performance between FY08 and FY09 did not change either. In fact, the percent of over-standard cases that are Track 4 increased from 35-36% in FY07 and FY08 to 57% in FY09, whereas that of Tracks 3 and 2 decreased from 39-45% to 33% and from 19-20% to 7%, respectively. This shift in the distribution of cases by track within the over-standard cases clearly indicates that the Court's performance in processing Track 4 cases has more impact on the overall criminal case processing performance than it did in the past.

Despite the change in the case time standard, the ACT for over-standard Tracks 3 and 4 cases slightly deteriorated for FY09. For FY09, Track 4 cases have an over-standard ACT of 301 days, compared to 294 days for FY08; Track 3 cases have an over-standard ACT of 238 days, compared to 231 days for FY08. For these cases, removing the time between verdict and sentencing has little impact. While for these cases, which often have pre-sentencing investigation and/or pre-sentencing treatment program suspensions, it would be expected that the FY09 case time under the new standard to be at least the same or slightly better than the FY08 figure. However, slightly worsened FY09 ACT suggests that the Court's case processing performance of Tracks 3 and 4 cases may have started slipping.

In contrast, for over-standard Tracks 1 and 2 cases, the change in the time standard resulted in the saving of approximately 35 days. As observed in previous years, the increases in Track 4 cases relative to the number of cases in other tracks would guarantee a reduced within-standard percentage. The change in the time standard further reinforced the tendency. In contrast, increases in Tracks 0, 1 and 2 cases would have the similar impact but in the opposite direction. In fact, between FY06 and FY08, the percentage of Track 1 cases declined from 47% to 42%.

Of the 5 DCM Track-specific cases, those in Tracks 0, 1, and 2 met the state compliance rate of 98% of cases closing within-standard while those in Tracks 3 and 4 failed to meet the 98% goal. As indicated above, any increase in these tracked cases would have inevitably resulted in an increase in the number of over-standard terminations, and it appears that the trend may be heading toward that direction. Facing this, the Court may need to re-evaluate its current processing practices of Tracks 3 and 4 cases, in particular that of Track 4, and devise plans to increase the percentage of cases closed within the standard.

Case Sub-type Terminations by the Number of and Reasons for Trial Postponements

Table B.3b presents the breakdown of criminal cases by case sub-type and termination status cases for FY09. Two major sub-types are Circuit Court indictments (979 cases, 40%) and District Court appeals (938 cases, 48%). While the breakdown of within-standard cases by sub-type closely resembles that of overall cases, the breakdown of over-standard cases is heavily skewed where indictments account for 90% of over-standard cases. The last column of the table indicates that all but indictments met or exceeded the state 98% goal, indicating that the Court may need to focus on timely processing of indictment cases if it wishes to improve criminal case processing performance.

Table B.3b Criminal Cases by Case Sub-Type and Termination Status, FY09

Case Sub-type	All Cases		Cases Closed Within Time Standard		Cases Closed Over Time Standard		% of Over-Standard/All Cases
	N	%	N	% of WST*	N	% of OST*	
Indictment	979	40%	884	37%	95	90%	10%
Information	340	14%	333	14%	7	7%	2%
Bindover-Jury	221	9%	219	9%	2	2%	1%
Bindover-Appeal	938	38%	936	39%	2	2%	<1%
Total	2,478	100%	2,372	100%	106	100%	4%

* WST: within-standard; OST: over-standard

Note: Percentages do not always add to 100% due to rounding

Case Terminations by Trial Postponements

Table B.4 compares cases that had trial postponements to those that did not by termination status. Among cases terminated during FY09, 48% had at least one trial postponement, which is slightly lower than 49% for FY08 and 51% for FY07. Among cases with trial postponements, the percent of over-standard cases dropped to 8% for FY09, from 25% in FY08 (20% in FY07 and 19% in FY06), probably due to the change in the criminal case time standard. In particular, at least 98% of cases in Tracks 0, 1, and 2, even with such postponements were closed within-standard, thus meeting the state 98% goal. In comparison, 92% of Track 3 and 77% of Track 4 cases with such postponements were closed within-standard.

The bottom half of Table B.4 presents the same results for the cases that did not have trial postponements. The impact of the change in the case time standard is clear. Except for those in Track 4, nearly every case (over 99%) without trial postponements, either disposed of without having a trial or having trials as scheduled, was closed within-standard, compared to 97% in FY08. It is noted that only 94% of Track 4 cases that did not have trial postponements were closed within-standard, indicating that other factors such as pre-trial postponements and scheduling of other events are responsible for over-standard termination of these cases. It is also possible that a group of cases had their trial date set beyond the 180-day time limit with a 180-day good cause finding. The Court may want to investigate to what extent cases were given such 'good cause' extensions.

Table B.4 FY09 Criminal Case Terminations by Trial Postponements, Termination Status (Within or Over the 6-month Standard), and Track

<u>Terminations With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations			Over-Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	61	41	67%	78	41	100%	78	0	0%	0
Track 1	1,159	163	14%	77	160	98%	74	3	2%	205
Track 2	352	291	83%	113	284	98%	111	7	2%	199
Track 3	597	454	76%	130	419	92%	121	35	8%	238
Track 4	309	240	78%	176	184	77%	139	56	23%	298
Total	2,478	1,189	48%	126	1,088	92%	113	101	8%	268
<u>Terminations Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations			Over-Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	61	20	33%	35	20	100%	35	0	0%	0
Track 1	1,159	996	86%	26	995	>99%	26	1	<1%	206
Track 2	352	61	17%	52	61	100%	52	0	0%	0
Track 3	597	143	24%	33	143	100%	33	0	0%	0
Track 4	309	69	22%	74	65	94%	57	4	6%	349
Total	2,478	1,289	52%	31	1,284	100%	30	5	<1%	321

* ACT = Average case time, in days.

Case Terminations by the Number of and Reasons for Trial Postponements

Table B.5 presents the distribution of cases with trial postponements by number of such postponements and termination status (within- versus over-standard) for FY09, FY08 and FY07. Similar to FY07 and FY08, nearly half of the cases terminated in FY09 experienced at least one trial postponement and over 95% of the cases had one (83%) or two (13%) trial postponements. Among within-standard cases, the distribution of postponed cases by the number of trial postponement is nearly identical across the three fiscal years though the percent of postponed cases among within-standard cases declined from 57% in FY07 to 42% in FY08 and increased slightly to 46% in FY09.

Regarding over-standard cases, the major difference between FY09 and FY08/FY07 results is the distribution of over-standard cases with trial postponements by the number of postponements. Before the change in the time standard, even having a single trial postponement significantly increased the chance of an over-standard termination, and thus the majority of such cases were cases with a single trial postponement. In FY09, however, the portion of cases with a single postponement among over-standard cases declined to 35% from 72% in FY08; in turn, the proportion of cases with multiple postponements increased: from 13% to 35% for those with 2 trial postponements, from 8% to 22% for those with 3 trial postponements. This shift is also evident from the results in the last 3 columns that present the percent of cases closed over-standard given the number of trial postponements. In FY08 and FY07, respectively, 21% and 14% of cases with one trial postponement resulted in over-standard terminations; however, in FY09 only 4% of the cases with one trial postponement were over-standard.

In FY09, 95% of the over-standard cases had at least one trial postponement, comparable to the FY07 level (93%) and 8 percentage points higher than the FY08 level (87%).

Table B.5 Postponed Cases by the Number of Trial Postponements and Termination Status, FY07-09

Number of Postponements	All Cases				Within-Standard Cases				Over-Standard Cases				% of Over-Standard/All Cases		
	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09	FY08*	FY07
	N	%	%	%	N	%	%	%	N	%	%	%			
1	992	83%	84%	82%	957	88%	88%	89%	35	35%	72%	54%	4%	21%	14%
2	153	13%	12%	14%	118	11%	11%	9%	35	35%	13%	33%	23%	28%	49%
3	33	3%	2%	3%	11	1%	1%	2%	22	22%	8%	9%	67%	83%	59%
4+	11	1%	2%	1%	2	0%	0%	0%	9	9%	7%	3%	82%	100%	86%
Total	1,189	100%	100%	100%	1,088	100%	100%	100%	101	100%	100%	100%	8%	25%	20%
% Postponed		48%	49%	51%		46%	42%	57%		95%	87%	93%			

* FY08 figures are based on a sample of 505 criminal cases.

Similar to previous fiscal years, the most frequently cited trial postponement reasons for criminal cases is ‘System-Generated Initial Trial Date Not Conformed to Counsels’ Availability,’ accounting for over 70% of the trial postponement reasons (see table B.6). As we noted in previous reports, the exceedingly high occurrence of scheduled-related trial postponements could again be one of the issues to be considered in an effort to reduce the number of over-standard criminal cases. According to Maryland Rule 4-271, the Court is required to set a trial date for criminal cases within 30 days after the appearance of counsel or the first appearance of the defendant, whichever comes first. In order to comply with this Rule, the Circuit Court automatically schedules a trial date within the 30-day time limit when the case is filed in the Criminal Department *without* consulting involved parties. As a result, many trials need to be rescheduled to ensure the availability of all involved parties.

In the FY06 Caseflow Report, it was argued that the rescheduling of a criminal trial due to the unacceptability of the computer-generated trial date should not be considered a postponement because the first trial date was never agreed upon by parties. However, having observed that postponing cases due to ‘System-Generated Initial Trial Date Not Conformed to Counsels’ Availability’ has become a norm, we suspect that this practice may be abused in some cases. In addition, the impact of this postponement on timely disposition of Criminal cases is not insignificant. While a mere 10% of cases with this postponement resulted in over-standard terminations, because of the sheer number of occurrence (over 1,000 postponements), the number of over-standard cases with this postponement were close to 100, or 46% of the reasons that resulted in over-standard cases.

Other trial postponement reasons with a high chance of over-standard cases include:

- Calendar Conflict - Party Needs to Get Affairs in Order (15 (20%) resulted in over-standard terminations)
- New Counsel Sought or Has Entered their Appearance or Not Appointed (18 (32%) resulted in over-standard terminations)
- Witness Unavailable - New Witness Identified (11 (22%) resulted in over-standard terminations)
- Discovery Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare (22 (45%) resulted in over-standard terminations)
- Mental Evaluation Incomplete (10 (59%) resulted in over-standard terminations)⁸
- Increase/Decrease Court Time/Track Change/to Trail Behind another Case (10 (71%) resulted in over-standard terminations)
- Forensic Evidence Incomplete (11 (92%) resulted in over-standard terminations)

⁸ It is possible that trial postponements due to incomplete mental evaluation and incomplete forensic evidence may not affect a case time since they are case time suspension events *if* their start and stop dates were captured. Additional investigation is needed to verify whether or not these postponements are actually *valid* suspension events, and what impact that has on case time.

Combined, these postponement reasons account for another 45% of over-standard cases.

Table B.6 Trial Postponement Reasons and Termination Status, FY09

Postponement Reasons	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	%	N	%	
System-Generated Initial Trial Date Not Conformed to Counsels' Availability	1,022	71%	99	46%	10%
Calendar Conflict - Party Needs to Get Affairs in Order	74	5%	15	7%	20%
New Counsel Sought or Has Entered their Appearance or Not Appointed	57	4%	18	8%	32%
Witness Unavailable - New Witness Identified	51	4%	11	5%	22%
Discovery Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	49	3%	22	10%	45%
Settlement, Plea or Reconciliation in Progress	39	3%	1	0%	3%
Illness/Medical Emergency or Death	23	2%	9	4%	39%
Case Not Reached or Was on the To-Be-Assigned Docket and Not Reached	19	1%	2	1%	11%
Police Officer Not Available	18	1%	2	1%	11%
Mental Evaluation Incomplete	17	1%	10	5%	59%
Increase/Decrease Court Time/Track Change/to Trail Behind another Case	14	1%	10	5%	71%
Vacation Plans/Religious Reasons	14	1%	2	1%	14%
Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	12	1%		0%	0%
Forensic Evidence Incomplete	12	1%	11	5%	92%
New Complaint, Petition, 3rd Party Complaint, or Consolidation Pending/Complaint Not at Issue or Ripe	6	0%	1	0%	17%
Defendant/Respondent Is Participating in a Rehabilitation Program	5	0%		0%	0%
Pending Motions to Be Heard or Ruled on	4	0%	2	1%	50%
Competency Evaluation Ordered	3	0%	1	0%	33%
Request for Services (e.g. Private Custody & Mental Health Evaluations, Private Mediation)	2	0%	1	0%	50%
Subpoena Not Issued for Witness	2	0%		0%	0%
Defendant or Respondent - Postponement Reason Not Disclosed	1	0%		0%	0%
Interpreter or ADA Special Needs Requested	1	0%		0%	0%
Judge Disqualified/Recused from Case	1	0%		0%	0%
Judge Unable to Reach Court Event (e.g. Illness, Scheduling Conflict)	1	0%		0%	0%
Weather/Court Emergency/Administrative Court Closure	1	0%		0%	0%
Party(s) Did Not Receive Notice of Court Date	1	0%		0%	0%
Total	1,449	100%	217	100%	15%

Summary of Criminal Findings

- In FY09, the percentage of criminal cases closed within the state 6-month standard improved to 96% largely due to a change in the criminal case time standard that now measures the case time between the first appearance and verdict instead of sentencing. In fact, based on the old time standard, the FY09 performance appeared to be slightly better (88%) than the FY08 performance (86%). This is the third time in 5 years when the percentage fell from 90%.
- Nearly half (47%) of all cases that closed in FY09 were Track 1 cases. Over 98% of Track 1 cases, as well as those in Tracks 0 and 2, were closed within the time standard, thus meeting the state goal. In contrast, 94% of Track 3 cases and 81% of Track 4 cases were closed within-standard.
- In terms of criminal case sub-type, only indictment cases failed to meet the 98% state goal with the 90% of cases closed within-standard.
- As also observed in previous years, close to half of the terminated cases (47%) experienced at least one trial postponement in FY09. The likelihood of a case with one trial postponement resulting in an over-standard termination was 8%, compared to 21% in FY08 and 14% in FY07, with the reduction being attributable to the change in standard.
- As also found in FY07 and FY08, the most often reported reason for a trial postponement was 'System-Generated Initial Trial Date Not Conformed to Counsels' Availability,' which accounted for 70% of all the trial postponements in FY09.

Recommendations for Future Criminal Analyses

- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance for Track 4 cases and indictment cases by examining the types of cases being designated as complex and how well these cases are performing against the Track 4 DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage.
- Examine all postponements, both trial and pre-trial postponements, in order to accurately assess the impact of postponements on case processing time. It would be useful to investigate further the nature and type of trial postponements as well as to identify mediating factors that increase the likelihood of postponed cases terminating over-standard. In addition, with regard to the analysis of event-specific postponements, separately examine cases that had an event in question and those that did not to obtain a more accurate picture of the impact of postponements on the case processing performance.
- Assess the current practice of automatically scheduling trial dates when cases are filed in light of 'System-Generated Initial Trial Date Not Conformed to Counsels' Availability,' which accounts for over 70% of the trial postponements. Develop a more efficient trial scheduling practice that does not fill the Assignment Office's trial calendar with dates that were not confirmed by parties.

- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, the court can and does move forward with the case, and it may not be appropriate to exclude such time from the calculation of the case processing time. The Circuit Court Time Standard Sub-Committee is requested to address this and develop guidelines as to how it should be handled by JIS and/or individual courts.
- For a suspension event such as competency and DNA/forensic test results, the event begins with the competency evaluation order or postponement of a scheduled event due to the unavailability of DNA/forensic results and ends with the date of the next event, supposedly a competency hearing or trial, which may occur some time after the results of the competency evaluation or DNA/forensic test results are received. Essentially, the competency or DNA/forensic suspension event includes some additional time between receipt of the competency evaluation or DNA/forensic results and the date of the next court event. In the case of competency, it makes sense not to have the receipt of the evaluation as the suspension end date since the competency suspension would resume when a defendant is found to be incompetent at the hearing. If receipt of the evaluation is made the suspension stop, this would result in multiple suspensions of the same kind, which the application is currently unable to handle (except for FTA/bench warrant suspensions). However, the problem arises when the next event is not the one that is expected (e.g., competency hearing or trial), resulting in a shortened suspension. It is recommended that the Time Standards Sub-Committee review this issue as it may be advisable to define the next event in the time standards chart as the suspension stop date.

Domestic Relation Case Terminations Fiscal Year 2009 Case Terminations

C. Domestic Relations Case Processing Definitions and Summary

	Domestic Relations Case Time Definitions	Percent Within 12-month (365 days) and 24-month (730 days) Standard	Additional Montgomery County Measurements†
Domestic Relations Case Standards and Montgomery County Measures	<p><u>Case Time Start:</u> Filing of Case.</p> <p><u>Case Time Stop:</u> Disposition, dismissal, or judgment. Judgment in limited divorce cases if the limited divorce is the only issue.</p>	<p><u>State-Set Goal:</u> 90% within 12 months 98% within 24 months</p> <p><u>Montgomery County:</u></p> <p>12-month standard: CY 2001: 92% CY 2002: 91% CY 2003: 92% FY 2005: 90% FY 2006: 91% FY 2007: 90% FY 2008*: 90% FY 2009: 92%</p> <p>24-month standard: CY 2001: N/A CY 2002: 99% CY 2003: 100% FY 2005: 99% FY 2006: 100% FY 2007: 99% FY 2008*: >99% FY 2009: >99%</p>	<p><u>Circuit Court Filing to Service/Answer, whichever comes first:</u> CY 2001: 39 days CY 2002: 44 days CY 2003: 43 days FY 2005: 46 days FY 2006: 44 days FY 2007: 41 days FY 2008*: 39 days FY 2009: 58 days</p> <p><u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 187 days CY 2003: 185 days FY 2005: 173 days FY 2006: 154 days FY 2007: 157 days FY 2008*: 155 days FY 2009: 148 days</p>
<p>Note: Domestic relations case time is suspended for bankruptcy stay, interlocutory appeal, body attachment, military leave, and no service in child support cases after 90 days from filing, and collaborative law start.</p> <p>* FY2008 results are based on a sample of 510 domestic relations.</p> <p>†Additional measures are calculated by Data Processing based on its sample except for the average case processing time.</p>			

Overall Domestic Relations Case Terminations

In FY09, 7 Circuit Court Judges and 5 Masters heard family law matters. The Family Division Judges conduct all trials and motions hearings. At Montgomery County Circuit Court, the Family Division Masters hear the following events:

- Scheduling Conferences
- Pendente Lite Hearings

- Settlement Status Conferences (custody issues)
- Settlement Pretrial Conferences (property and monetary issues)
- Support of Dependents
- Uncontested Divorces
- Earnings Withholding Hearings
- Any issues, by Order and Agreement of the Parties

However, when *any* event exceeds one day in length, the matter is set before a Judge.

Table C.1 provides the number of original domestic relations (DR) case terminations and the average case time (ACT) by case termination status between FY04 and FY09.

- In FY09, the Court processed a total of 7,440 original DR case terminations, a small decrease of 233 cases (3%) from the FY08 level (7,673 cases). This is the first decline in the number of terminations since FY04. Between FY04-FY08, the number of terminations increased with an average of about 1,000 cases per year except for between FY06 and FY07 when the increase was much smaller (354 cases). One possible reason for the observed decline in the number of terminations is the increased motion filings for modifications, such as child support due to the downturn in the economy, before or at the time of the final judgment of divorce, preventing the case to be closed with the final judgment. Such modifications result in rescheduling of events, substantially extending the case time and preventing case closure.
- The Court's overall DR case processing performance improved in FY09. The percentages of DR cases terminated within the 12- and 24-month standards was 92% and 99%, respectively, thus meeting the state-set goal of closing 90% of cases within 12 months and 98% in 24 months.
- The overall ACT for FY09 terminations was 148 days, slightly lower than the FY05-08 level (154-173 days). Under the 12-month standard, the ACT among within- and over-standard terminations was 117 days and 505 days, respectively, identical to the FY08 level. Under the 24-month standard, the FY09 ACT among within- and over-standard terminations was 148 days (152 days for FY08) and 916 days (946 days for FY08), respectively.

Table C.1 Number of Domestic Relations Case Terminations FY04-09

Fiscal Year	Total Terminations		12-month Standard						24-month Standard					
			Within-Standard Terminations			Over-Standard Terminations			Within-Standard Terminations			Over-Standard Terminations		
	N	ACT*	N	%	ACT	N	%	ACT	N	%	ACT	N	%	ACT
FY04	4,386	129	4,047	92%	98	339	8%	499	4,362	100%	124	24	<1%	1,043
FY05	5,364	173	4,818	90%	133	546	10%	534	5,316	99%	164	48	1%	1,255
FY06	6,368	154	5,820	91%	123	548	9%	493	6,337	100%	151	27	<1%	872
FY07	6,722	157	6,066	90%	118	656	10%	522	6,666	99%	150	56	1%	988
FY08**	(510)	155	(460)	90%	117	(50)	10%	505	(508)	>99%	152	2	<1%	946
FY09	7,440	148	6,841	92%	117	599	8%	505	7,393	>99%	148	47	<1%	916

Maryland domestic relations case time standards and goals: 12 and 24 months and 90% for 12-month and 98% for 24-month within-standard terminations

* ACT = Average Case Time, in days.

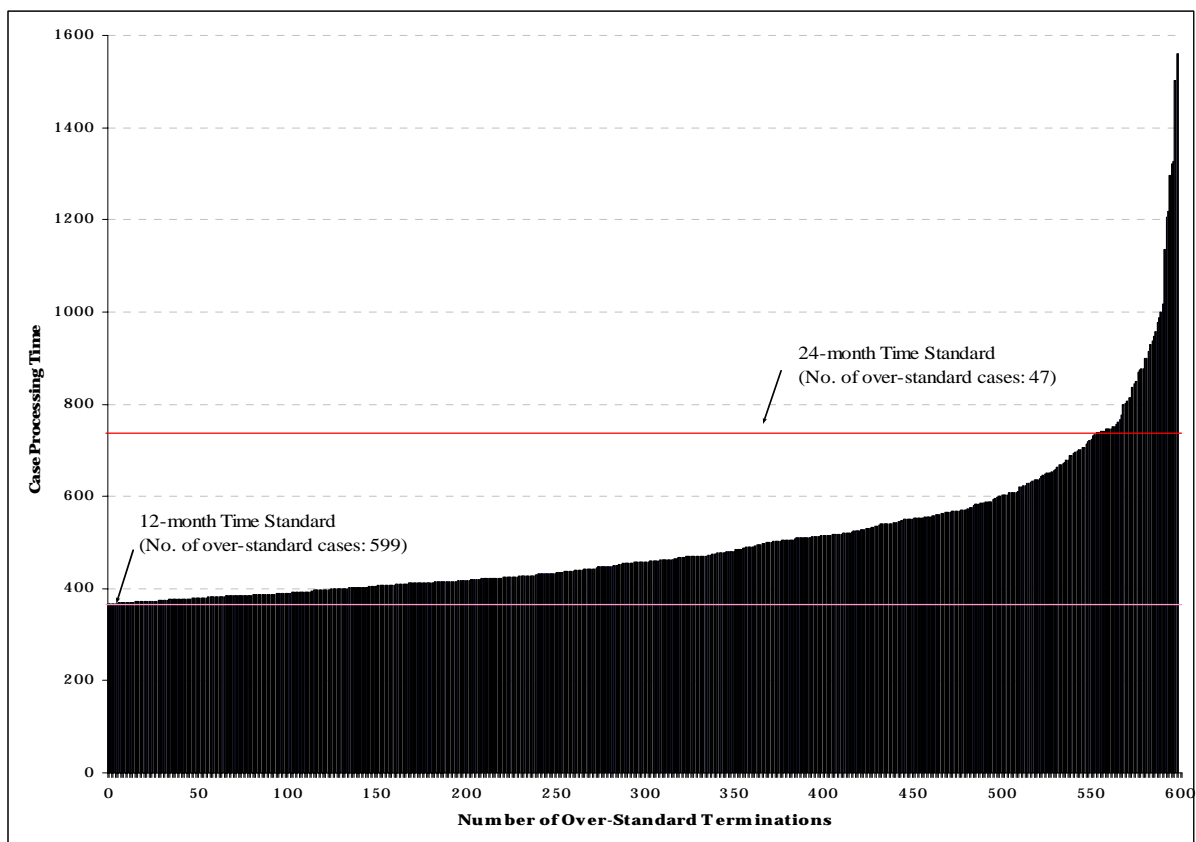
** The full domestic caseload for FY08 was 7,673. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

Table C.2 Distribution of Over-Standard Domestic Relations Cases, FY07-09

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	656	522	463	373	381	407	574	708	823	5,189
FY08*	50	505	445	379	382	390	564	711	714	1,080
FY09	599	505	458	374	381	405	551	687	799	1,559

*Based on a sample of 510 domestic relations cases.

- Comparing the distribution of over-standard cases between FY07-08 and FY09 indicates that 75th and 90th percentile values for FY09 are 15-20 days shorter than those for two previous fiscal years, whereas the FY09 5th, 10th, and 25th percentiles are nearly identical to those for FY07. In addition, the case with the largest clock time is 1,559 days for FY09, compared to 5,189 days for FY07. It appears that the Court's efforts to 'clean up' extremely over-standard cases has started having some impact on the over-standard ACT.
- There are 9 cases with the case times over 1,000 days (maximum: 1,559 days). Thirty cases had a case time of 800 days or over. In some of the cases with an extended case time, a reason for the extended time was due to post-judgment motions filed before or about the same time the judgment for absolute divorce was granted, thus rendering cases to remain open after the divorce judgment. While the additional time the Court spent to resolve these issues widely varies from 26 days to 1,005 days, on average 414 days were added. In other cases, the case time was extended due to inactivity, resulting in multiple issuances of a 2-507 Notice and corresponding deferrals until they were eventually dismissed. Of the over 3,500 absolute or limited divorce cases, 55 cases had such post-judgment issues. On the other side of the spectrum of over-standard cases, 11 over-standard cases closed within 369 days or less. Thirty-four over-standard cases closed within 375 days or less.

**Figure C.1 Distribution of Over-Standard Domestic Relations Cases, FY09**

Case Terminations by Track

Montgomery County's Differentiated Case Management (DCM) Plan established the following 5 tracks for DR cases:

- Track 0: Uncontested divorce without summons (870 cases)
- Track 1: Uncontested divorce with summons (2,302 cases)
- Track 2: No physical custody issues and limited discovery (811 cases)
- Track 3: Physical custody issues and/or divorce with moderate discovery (493 cases)
- Track 4: "Judge Track," reserved for cases involving extensive property holdings, complicated business valuations, significant assets held in various forms, pensions, alimony and other support issues along with custody, visitation and divorce. (1 case)
- No Track ("Track N"): Cases with other issue(s) including but not limited to: Uniform Support, Change of Name, Paternity, URESA, and waiver of court costs. (2,963 cases)

Table C.3 summarizes the number and distribution of DR cases and their ACT by track, both within- and over- the 12-month time standard.⁹

Table C.3 FY09 Domestic Relations Case Terminations by Termination Status (Within or Over the 12- and 24-month Standards) and Track

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
12-month Standard											
Track 0	870	12%	67	863	13%	99%	64	7	1%	1%	423
Track 1	2,302	31%	152	2,202	32%	96%	136	100	17%	4%	504
Track 2	811	11%	293	577	8%	71%	211	234	39%	29%	495
Track 3	493	7%	352	275	4%	56%	220	218	36%	44%	520
Track 4	1	0%	609	0	0%	0%	0	1	0%	100%	609
Track N	2,963	40%	95	2,924	43%	99%	90	39	7%	1%	498
Total	7,440	100%	148	6,841	100%	92%	117	599	100%	8%	505
24-month Standard											
Track 0	870	12%	67	870	12%	100%	67	0	0%	0%	0
Track 1	2,302	31%	152	2,292	31%	100%	148	10	21%	0%	874
Track 2	811	11%	293	793	11%	98%	278	18	38%	2%	951
Track 3	493	7%	352	476	6%	97%	333	17	36%	3%	897
Track 4	1	0%	609	1	0%	100%	609	0	0%	0%	0
Track N	2,963	40%	95	2,961	40%	100%	95	2	4%	0%	976
Total	7,440	100%	148	7,393	100%	99%	143	47	100%	1%	916

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

- As observed in previous years, the majority of FY09 terminations were from either Track 1 (31%) or Track N (40%), accounting for over 70% of the originally terminated cases. Another 20% of the cases were from Track 0 (12%) and Track 2 (11%). Cases in these tracks, except for Track 2, are characterized with a relatively short ACT (Track 0: 67 days, Track 1: 152 days, and Track N: 95 days) and a high percentage of cases closed within-standard, ranging from 96% to nearly 100%. Cases in Tracks 0, 1, and N accounted for over 83% (82% in FY08, 79% in FY07) of the DR cases.

⁹ Because nearly 100% of the cases closed within the 24-month standard, the following analyses focus only on cases over the 12-month standard unless noted otherwise.

- The remaining cases, those in Tracks 3 and 4, accounted for only 7% of the cases in the FY09 data. Combined with Track 2 cases, these cases account for 18% of the FY09 case terminations (18% in FY08, 20% in FY07) and were characterized with a substantially higher ACT and a much lower within-standard termination rate. Specifically, the overall ACT for cases in Tracks 2 and 3 for FY09 was 293 days, and 352 days, respectively, and the percent of cases closed within the 12-month Time Standard was 71% and 56%. While these FY09 performance measures show some improvement from FY08, it is imperative that the Court still evaluate the current practice of processing cases in Tracks 2 and 3 and devise intervention measures to reduce the time used to process these cases.

Case Terminations by the Number of and Reasons for Trial Postponements

Table C.4 compares the number, percentage, and ACT of DR cases according to their track, whether or not they had trial postponements, and whether or not they closed within the 12-month Time Standard. During FY09, 2% of the closed cases experienced at least one trial postponement. As observed in previous years, trial postponements were mostly found in Tracks 2 and 3 (96%) since cases that are in Tracks 0 and 1 rarely go to trial because of the nature of these cases.

- Overall, cases with trial postponements took an average three times longer (452 days) than did those without such postponements (142 days). Even among cases closed within the 1-year time standard, the ACT for cases with trial postponements (262 days) is nearly twice as long as those without trial postponements (116 days). Among over-standard cases, however, the difference in ACT is not as large; the ACT for cases with trial postponements is 547 days, 50 days longer than for those without such postponements (497 days).
- Among cases in Tracks 2 and 3, having trial postponements substantially increases the likelihood of becoming over-standard. Among Track 2 cases, 68% of cases with trial postponements resulted in over-standard terminations, compared to 25% of those without such postponements. In comparison, 66% of Track 3 cases with trial postponements resulted in over-standard terminations, compared to 41% of those without trial postponements.
- Since 25% of Track 2 cases and 41% of Track 3 cases without trial postponements still resulted in over-standard terminations, other factors such as pre-trial postponements, filings of post-judgment motions before final judgment, and the general schedule practices of these cases may also have impacted the progress of the cases in these tracks. Additional investigation is necessary to identify such factors.

Table C.4 FY09 Domestic Relations Case Terminations by Trial Postponements, Termination Status (Within or Over the 12-month Standard), and Track

<u>Terminations With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations % of			Over-Standard Terminations % of		
		N	Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 0	870	2	0%	289	1	50%	151	1	50%	427
Track 1	2,302	2	0%	310	1	50%	43	1	50%	576
Track 2	811	73	9%	443	23	32%	257	50	68%	528
Track 3	493	67	14%	472	23	34%	285	44	66%	570
Track 4	1	1	100%	609	0	0%	0	1	100%	609
Track N	2,963	1	0%	182	1	100%	182	0	0%	0
Total	7,440	146	2%	452	49	34%	262	97	66%	547

<u>Terminations Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within-Standard Terminations % of			Over-Standard Terminations % of		
		N	Track	ACT*	N	Track	ACT*	N	Track	ACT*
Track 0	870	868	100%	66	862	99%	64	6	1%	422
Track 1	2,302	2,300	100%	151	2,201	96%	136	99	4%	503
Track 2	811	738	91%	278	554	75%	209	184	25%	486
Track 3	493	426	86%	334	252	59%	214	174	41%	507
Track 4	1	0	0%	0	0	NA	0	0	NA	0
Track N	2,963	2,962	100%	95	2,923	99%	90	39	1%	498
Total	7,440	7,294	98%	142	6,792	93%	116	502	7%	497

* ACT = Average case time, in days.

Table C.5 provides the distribution of the cases by the number of trial postponements and case termination status for FY07-09. Overall 2-3% of cases experienced trial postponements. In particular, among within-standard cases, only 1% of cases were postponed; however, among over-standard cases, the percentage is much higher at 12-16%. In addition, postponements increased the chance of a case being closed over-standard; for FY09, 63% of cases with one trial postponement were closed over-standard. Since trial postponements are concentrated among cases in Track 2 and Track 3, examining the circumstances under which postponements were granted in these cases (particularly among Track 3 cases) may be warranted.

Table C.5 Postponed Domestic Relations Cases by the Number of Trial Postponements and Termination Status, FY07-09

Number of Trial Postponements	All Cases				Within-Standard Cases				Over-Standard Cases				% of Over-Standard/All Cases		
	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09	FY08*	FY07
	N	%	%	%	N	%	%	%	N	%	%	%			
1	124	85%	60%	87%	46	94%	75%	88%	78	80%	50%	86%	63%	50%	54%
2	17	12%	30%	11%	2	4%	25%	12%	15	15%	33%	10%	88%	67%	48%
3	4	3%	10%	2%	1	2%	0%	0%	3	3%	17%	4%	75%	100%	100%
4	1	1%	0%	0%	0	0%	--	--	1	1%	--	--	100%	--	--
Total	146	100%	100%	100%	49	100%	100%	100%	97	100%	100%	100%	66%	60%	54%
% Postponed		2%	2%	3%		1%	1%	1%		16%	12%	16%			

*Based on a sample of 510 domestic relations cases.

Table C.6 presents the reasons for 174 trial postponements experienced by 146 cases for FY09. As indicated above, since only 2-3% of cases experienced trial postponements, regardless of reason(s) for a postponement, having a trial postponed often results in over-standard terminations. The most frequently

cited postponement reason among all DR terminations and over-standard terminations is ‘Calendar Conflict – Party Needs to Get Affairs in Order’ (23% and 22%, respectively).

Table C.6 Trial Postponement Reasons and Termination Status, FY09

Postponement Reason	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	%	N	%	
Calendar Conflict - Party Needs to Get Affairs in Order	40	23%	27	22%	68%
Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	24	14%	19	16%	79%
Illness/Medical Emergency or Death	23	13%	20	17%	87%
Witness Unavailable - New Witness Identified	20	11%	5	4%	25%
New Complaint, Petition, 3rd Party Complaint, or Consolidation Pending/Complaint Not at Issue or Ripe	17	10%	13	11%	76%
New Counsel Sought or Has Entered their Appearance or Not Appointed	10	6%	8	7%	80%
Reports and Evaluations Not Completed/Re-Evaluation Ordered	10	6%	8	7%	80%
Case Not Reached or Was on the To-Be-Assigned Docket and Not Reached	7	4%	5	4%	71%
Vacation Plans/Religious Reasons	5	3%	2	2%	40%
Increase/Decrease Court Time/Track Change/to Trail Behind another Case	3	2%	3	2%	100%
Settlement, Plea or Reconciliation in Progress	3	2%	3	2%	100%
Party(s) Did Not Receive Notice of Court Date	3	2%		0%	0%
Legislative Postponement	3	2%	3	2%	100%
Mental Evaluation Incomplete	2	1%	2	2%	100%
Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	1	1%	1	1%	100%
Judge Unable to Reach Court Event (e.g. Illness, Scheduling Conflict)	1	1%	1	1%	100%
Pending Motions to Be Heard or Ruled on	1	1%		0%	0%
Request for Services (e.g. Private Custody & Mental Health Evaluations, Private Mediation)	1	1%	1	1%	100%
Total	174	100%	121	100%	70%

Case Terminations by Main Charge

Table C.7 presents the number of case terminations during FY09, FY08 and FY07 by their main charges. Overall, 48% of the cases were involved in divorce, either absolute (46%) or limited (2%). However, among cases with over-standard terminations, the percentage of divorce cases was much higher (85%). Given that divorce cases normally involve child custody/access issues, which generally require out-of-the-court services as well as other property/financial issues, it may be reasonable to expect some of these cases to take longer than others. Also, case time may be adversely impacted by legal requirements as to the length of separation required for a judgment of divorce. Further investigation is needed to analyze these cases by the number and types of issues involved and how this relates to case processing time.

Table C.7 Case Terminations by Main Charge, FY07-09

Main Charge	All Terminations				Over-Standard Terminations				% Over-Standard/ All Cases		
	FY09 N	FY09 %	FY08* %	FY07 %	FY09 N	FY09 %	FY08* %	FY07 %	FY09	FY08*	FY07
Amend Birth Certificate	28	(<1%)	1%	1%	1	(<1%)	0%	(<1%)	4%	0%	2%
Amend Marriage License	57	1%	1%	1%	0	0%	0%	0%	0%	0%	0%
Annulment of Marriage	15	(<1%)	(<1%)	(<1%)	3	1%	2%	1%	20%	50%	15%
Appt of Guardian	223	3%	4%	4%	4	1%	2%	1%	2%	5%	2%
Change Of Name	726	10%	7%	11%	15	3%	0%	4%	2%	0%	4%
Custody	625	8%	7%	9%	40	7%	6%	5%	6%	8%	6%
Divorce Absolute	3,388	46%	45%	52%	483	81%	80%	82%	14%	17%	15%
Divorce Limited	121	2%	2%	2%	23	4%	8%	4%	19%	44%	18%
Enroll Foreign Decree	69	1%	1%	1%	0	0%	0%	0%	0%	0%	0%
Miscellaneous Petition	38	1%	1%	1%	0	0%	0%	0%	0%	0%	0%
Paternity	575	8%	9%	8%	14	2%	0%	1%	2%	0%	2%
Support	16	(<1%)	(<1%)	(<1%)	0	0%	0%	(<1%)	0%	0%	17%
Uniform Support	919	12%	12%		8	1%	2%		1%	2%	
URESA	319	4%	5%	5%	4	1%	0%	(<1%)	1%	0%	1%
Visitation	40	1%	1%	1%	4	1%	0%	1%	10%	0%	13%
Waive Court Costs	260	3%	4%	4%	0	0%	0%	0%	0%	0%	0%
Other	21	(<1%)	0%	(<1%)	0	0%	0%	(<1%)	0%	NA	8%
Total	7,440	100%	100%	100%	599	100%	100%	100%	8%	10%	10%

Note: Percentages do not always add to 100% due to rounding.

*Based on a sample of 510 domestic relations cases.

Summary of Domestic Relations Findings

- The overall number of DR case terminations for FY09 slightly declined to 7,440 after a continuous increase over the past 5 fiscal years. For FY09, the Court met the statewide case processing goals for DR cases by closing 92% of such cases within the state 12-month standard (slightly improved over FY08) and closing almost all of its DR cases within the 24-month standard.
- Close to one-third of all terminations were from Track 1 in FY09, and 40% of the terminations were not tracked (Track N), followed by cases in Track 2 (11%) and Track 0 (11%). Cases in these tracks, except for Track 2, were characterized with a relatively short ACT and a high percentage of cases closed within-standard. Cases in Tracks 0, 1, and N accounted for over 80% of the DR cases.
- During FY09, 2% of the closed cases experienced at least one trial postponement. While only 16% of the over-standard cases were postponed in FY09, postponements increased the chance of a case closing over-standard. Trial-postponed DR cases were found almost exclusively among Tracks 2 and 3.
- Close to 50% of DR cases originally terminated in FY09 involved divorce (absolute or limited divorce), and among over-standard cases 86% are cases that contained divorce-related issues.

Recommendations for Future Domestic Relations Analyses

- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance for Track 2 and Track 3 cases by examining how well these cases were processed against its DCM time standards and identifying at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage. Evaluating the

current case processing practices of Track 2 and Track 3 cases to devise intervention measures to reduce the time used to process these cases may also be useful.

- Examine all postponements, including both trial and pre-trial postponements, in order to accurately assess the impact of postponements on case processing time. With regard to the analysis of event-specific postponements, separately examine cases that had an event in question and those that did not to obtain a more accurate picture of the impact of postponements on the case processing performance.
 - Further, the Court should examine how postponement reasons are being chosen and assess whether there is consistency across Departments in the meaning of postponement reasons.

Recommendations for Circuit Court Time Standards Sub-Committee

- The Time Standards Sub-Committee may want to investigate at what point courts are closing DR cases. For example, it is not clear whether courts are closing cases months after a judgment of absolute divorce is granted because of post-judgment motions that are being filed before the clerks have a chance to change the case status to close. If the judgment is the case stop date, the codes associated with this judgment need to be included in the FY2010 Circuit Court Caseflow training manual, as well as discussed at the FY2010 Circuit Court Caseflow training sessions.
- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, courts can and do move forward with the case, and it may not be appropriate to exclude such time from the calculation of the case processing time. The Time Standards Sub-Committee is requested to address this issue and develop guidelines as to how it should be handled.
- Confusion continues to exist about the application of the 12-month and 24-month time standards to all DR cases. Since the 24-month time standard was originally intended to be applied to limited divorce cases only, clarification should be provided to courts as to why this standard is being applied to all DR cases. It is recommended that the 24-month standard be dropped considering the majority (88%, N = 21) of courts met the statewide of closing 98% of DR cases in 24-months.

Juvenile Delinquency Case Terminations

Fiscal Year 2009 Case Terminations

D. Juvenile Delinquency Case Processing Definitions and Summary

	Juvenile Case Time Definitions	Percent Within 3-month (90 day) Standard	Additional Montgomery County Measurements†
Juvenile Delinquency Case Standards and Montgomery County Measures			<u>Original Offense Date to Filing:</u> CY 2001: N/A CY 2002: 128 days CY 2003: 127 days FY 2005: 109 days FY 2006: 101 days FY 2007: 112 days FY 2008*: 116 days FY 2009: 103 days
	<u>Case Time Start:</u> First appearance of respondent or entry of appearance by counsel.	<u>State-Set Goal:</u> 98% <u>Montgomery County:</u> CY 2001: N/A CY 2002: 99% CY 2003: 98% FY 2005: 99% FY 2006: 99% FY 2007: 98% FY 2008*: 95% FY 2009: 96%	<u>Filing to First Appearance:</u> CY 2001: N/A CY 2002: 28 days CY 2003: 28 days FY 2005: 24 days FY 2006: 21 days FY 2007: 22 days FY 2008*: 25 days FY 2009: 32 days
	<u>Case Time Stop:</u> Disposition (jurisdiction waived, dismissal, stet, probation, facts sustained, facts not sustained, NP, NCR finding).		<u>Filing to Case Stop:</u> CY 2001: N/A CY 2002: 60 days CY 2003: 83 days FY 2005: 70 days FY 2006: 75 days FY 2007: 77 days FY 2008*: 69 days FY 2009: 72 days
			<u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: N/A CY 2003: 43 days FY 2005: 40 days FY 2006: 40 days FY 2007: 41 days FY 2008*: 46 days FY 2009: 47 days

Note: Juvenile delinquency case time is suspended for bench warrant, failure to appear, mistrial, general psychological evaluation, petition for reverse waiver, competency evaluation, pre-disposition investigation report order, pre-disposition treatment program, interlocutory appeal, and military leave.

* FY08 results are based on a sample of 510 juvenile delinquency cases.

†Additional measures are calculated by Data Processing based on its sample except for the average case processing time.

Overall Juvenile Delinquency Case Terminations

In Fiscal Year 2009 (FY09), the Montgomery County Circuit Court terminated a total of 1,384 juvenile delinquency cases, which is slightly lower (7%) than 1,492 cases terminated in FY08. The state-defined time standard for juvenile delinquency cases is 90 days, and the processing goal is to close 98% of cases within the time standard. Between FY04 and FY07, 98-99% of juvenile delinquency cases closed within the 90-day standard, and the average case processing time (ACT) was 40-43 days. However, for FY08, the within-standard percentage fell to 95%, and the ACT increased to 46 days. In FY09, the within-standard percent slightly improved to 96%, but the ACT slightly worsened to 47 days, a day longer than the FY08 level (46 days).

The FY09 ACT among within-standard cases rose to 43 days, compared to 42 days for FY08. Alarming is, however, the substantial increase in the ACT among over-standard cases; for FY09 over-standard cases took an average of 134 days to close, 7 days longer than the FY08 average (127 days). Though the FY09 over-standard ACT is still substantially lower than that for FY04 (198 days), a steady increase since FY07 is of concern particularly in light of the fact that the overall number of case terminations slightly declined between FY08 and FY09.

Table D.1 Number of Juvenile Delinquency Case Terminations FY04-09

Fiscal Year	Terminations		Within-Standard Terminations 3-month (90 days) Standard			Over-Standard Terminations 3-month (90 days) Standard		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY04	1,521	43	1,490	98%	39	31	2%	198
FY05	1,431	40	1,416	99%	39	15	1%	122
FY06	1,651	40	1,634	99%	39	17	1%	143
FY07	1,485	41	1,455	98%	40	30	2%	119
FY08**	(510)	46	(484)	95%	42	(26)	5%	127
FY09	1,384	47	1,324	96%	43	60	4%	134

Maryland juvenile case time standard and goal: 90 days and 98% within-standard terminations

* ACT = Average Case Time, in days.

** The full juvenile caseload for FY08 is 1,492. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

Table D.2 presents the distribution of over-standard cases for FY07-09. A substantial increase in both the mean and median case times between FY07 and FY08 underscores the decline in the Court's case processing performance between the two fiscal years. In comparison, between FY08 and FY09, the median case time remained the same at 112 days whereas the ACT increased by 7 days. This is primarily due to a couple of cases with an extremely long case time (491 days) as shown in Figure D.1., which adversely affected the ACT for FY09. Without these two cases, the FY09 overall ACT would have been nearly identical to that for FY08.

Table D.2 Distribution of Over-Standard Juvenile Delinquency Cases, FY07-09

Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	30	119	107	92	94	95	134	171	178	179
FY08*	26	127	112	92	92	96	143	173	179	254
FY09	60	134	112	91	92	99	139	164	246	491

*Based on a sample of 510 juvenile delinquency cases.

In addition, at least 10% of the over-standard cases were a few days past the 90-day standard and 25% were 8 days over the time standard. Investigating these cases and devising plans to close cases similar

to these within-standard may be a viable option to improve the Court's juvenile case processing performance.

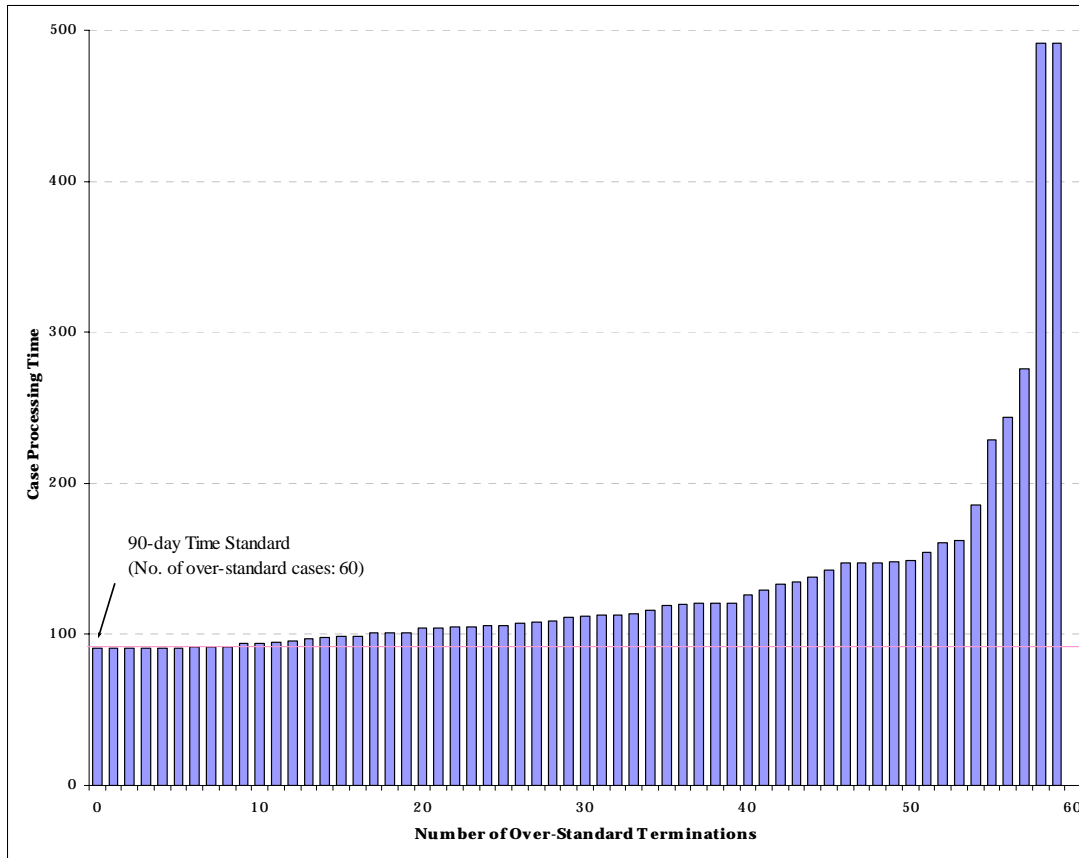


Figure D.1 Distribution of Over-Standard Juvenile Cases, FY09

Case Terminations by Track

Currently, the Montgomery County Circuit Court's Juvenile Differentiated Case Management (DCM) Plan categorizes juvenile delinquency cases into the following 4 Tracks:

- Track 1: Delinquent detention/shelter care (56 cases)
- Track 2: Delinquent non-detention (1,225 cases)
- Track 5: Complex delinquent detention/shelter care (0 cases)
- Track 6: Complex delinquent non-detention (3 cases)

Table D.3 provides the number of terminated cases by termination status (within- versus over-standard) and the DCM Track. Similar to previous years, in FY09, the vast majority (89%) of the juvenile delinquency cases were from Track 2 (non-detained cases), and the remaining (except for a few cases) from Track 1 (detained cases). Thus, the case processing performance of juvenile delinquency cases largely hinges upon how well the Court processes Track 2 cases. On average, Track 2 cases had a longer ACT (49 days) than Track 1 cases (32 days). In addition, the percent of cases closed within-standard for Track 1 is 99%, exceeding the state goal of 98%, whereas that of Track 2 cases was 96%, slightly lower than the goal. Needless to say, over-standard juvenile delinquency cases are over-represented among Track 2 cases (92%, 96% for FY08 and 87% for FY07). Accordingly, it is imperative that the Court investigate what factors contributed to these Track 2 cases to become over-standard.

Table D.3 FY09 Juvenile Delinquency Case Terminations by Termination Status (Within or Over the 3-month Standard) and Track

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
Track 1	156	11%	32	154	12%	99%	31	2	3%	1%	132
Track 2	1,225	89%	49	1,170	88%	96%	45	55	92%	4%	135
Track 5	--	--	--	--	--	--	--	--	--	--	--
Track 6	3	0%	131	0	0%	0%	0	3	5%	100%	131
Total	1,384	100%	47	1,324	100%	96%	43	60	100%	4%	134

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

Case Terminations by Trial Postponements

As shown in Table D.4 overall 29% of the juvenile delinquency cases terminated during FY09 had one or more trial postponements (26% in FY08). Overall 93% of these cases were closed within the 90-day time standard (91% for FY08). In contrast, 97% of cases without such trial postponements were closed within-standard. In particular, 100% of Track 1 cases without trial postponements were closed within-standard. In comparison, 96% of Track 2 cases without trial postponements were closed within-standard. Thus, for Track 2 cases, trial postponements are not the single cause of over-standard terminations, and additional examination of Track 2 cases is necessary to bring these cases closed within-standard.

Table D.4 FY09 Juvenile Delinquency Case Terminations by Trial Postponements, Termination Status (Within or Over the 3-month Standard), and Track

With Trial Postponements										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	156	42	27%	45	40	95%	41	2	5%	132
Track 2	1,225	350	29%	57	327	93%	53	23	7%	120
Track 5	--	--	--	--	--	--	--	--	--	--
Track 6	3	3	100%	131	0	0%	0	3	100%	131
Total	1,384	395	29%	57	367	93%	52	28	7%	122
Without Trial Postponements										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	156	114	73%	27	114	100%	27	0	0%	0
Track 2	1,225	875	71%	45	843	96%	42	32	4%	145
Track 5	--	--	--	--	--	--	--	--	--	--
Track 6	3	0	0%	--	0	NA	0	--	--	--
Total	1,384	989	71%	43	957	97%	40	32	3%	145

* ACT = Average case time, in days.

Note: Percentages do not always add to 100% due to rounding.

Table D.5 presents the distribution of juvenile delinquency cases by the number of trial postponements and termination status for FY09, as well as FY08 and FY07. While the overall percent of cases with trial postponements slightly declined from 28% in FY07 to 26% in FY08, so did the percent of cases with 2 or more postponements (14% to 4% for cases with 2 postponements and 3% to 1% for cases

with 3 postponements). In return, the percent of cases with a single trial postponement jumped from 82% to 96% between FY07 and FY08. This relative increase in cases with a single trial postponement in turn resulted in an equally large increase in the percent of within-standard cases (from 89% to 98%) and over-standard cases (58% to 75%) and the corresponding decline in the percent to cases with 2 trial postponements among both within- and over-standard cases, which perhaps resulted in a substantial reduction in the overall percent of postponed cases in over-standard cases from 87% in FY07 to 46% in FY08. In FY09 as in FY08, still over 90% of overall and within-standard cases with postponements experienced a single trial postponement. Among over-standard cases, 47% of them had postponements similar to FY08. It appears that the patterns of trial postponements for FY09 remained fairly similar to those observed in FY08. Intriguing is that despite apparent improved postponement situations between FY07 and FY08, the overall juvenile case processing performance actually declined from 98% to 95% between FY07 and FY08 and continued at that level in FY09, indicating that trial postponements are not the sole reason for over-standard case terminations.

One of the ramifications of this relative reduction in the number of cases with multiple trial postponements appears to be an increase in the percent of over-standard cases among those with multiple trial postponements. Thus, compared to 17% for FY07, 40% of the cases with 2 trial postponements were over-standard for FY08 and 28% for FY09. Among cases with 3 trial postponements, the percentage was 100% for FY08 and FY09, whereas it was 14% for FY07. It appears that cases with certain characteristics are inevitably postponed and closed over-standard. While it may not be possible to prevent these cases from having multiple trial postponements, examining such cases and identifying factors that may have resulted in prolonged case processing time may be the first step in improving performance.

Table D.5 Postponed Juvenile Delinquency Cases by the Number of Trial Postponements and Termination Status, FY07-09

Number of Postponements	All Cases				Within-Standard Cases				Over-Standard Cases				% of Over-Standard/ All Cases		
	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09		FY08*	FY07	FY09	FY08*	FY07
	N	%	%	%	N	%	%	%	N	%	%	%			
1	363	92%	96%	82%	346	94%	98%	89%	17	61%	75%	58%	5%	7%	4%
2	29	7%	4%	14%	21	6%	2%	9%	8	29%	17%	35%	28%	40%	17%
3	2	1%	1%	3%	0	0%	0%	2%	2	7%	8%	8%	100%	100%	14%
4	1	0%	--	--	0	0%	--	--	1	4%	--	--	100%	--	--
Total	395	100%	100%	100%	367	100%	100%	100%	28	100%	100%	100%	7%	7%	6%
% Postponed		29%	26%	28%		28%	25%	26%		47%	46%	87%			

Note: Percentages do not always add to 100% due to rounding.

*Based on a sample of 510 juvenile delinquency cases.

Table D.6 presents the breakdown of 431 trial postponement reasons experienced by 395 cases. Close to 70% of the postponements were due to calendar conflicts, of which 21 (7%) are associated with over-standard cases. Of the over-standard reasons, the 'Calendar Conflict' postponement reason accounts for close to half of the postponement reasons, far more frequent than the second 'Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested'(5) and third 'Illness/Medical Emergency or Death'(4).

Table D.6 Trial Postponement Reasons by Termination Status, FY09

Postponement Reason	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	%	N	%	
Calendar Conflict - Party Needs to Get Affairs in Order	298	69%	21	49%	7%
Pending Motions to Be Heard or Ruled on	42	10%	1	2%	2%
Increase/Decrease Court Time/Track Change/to Trail Behind another Case	21	5%		0%	0%
Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	15	3%	1	2%	7%
Illness/Medical Emergency or Death	11	3%	4	9%	36%
Witness Unavailable - New Witness Identified	11	3%	1	2%	9%
Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	8	2%	5	12%	63%
New Counsel Sought or Has Entered their Appearance or Not Appointed	7	2%	3	7%	43%
Competency Evaluation Ordered	4	1%	1	2%	25%
Defendant or Respondent - Postponement Reason Not Disclosed	3	1%	3	7%	100%
Reports and Evaluations Not Completed/Re-Evaluation Ordered	3	1%	1	2%	33%
Judge Unable to Reach Court Event (e.g. Illness, Scheduling Conflict)	2	0%		0%	0%
Defendant/Respondent Is Participating in a Rehabilitation Program	1	0%		0%	0%
Forensic Evidence Incomplete	1	0%	1	2%	100%
Parent Not Present	1	0%		0%	0%
Police Officer Not Available	1	0%		0%	0%
Settlement, Plea or Reconciliation in Progress	1	0%	1	2%	100%
Subpoena Not Issued for Witness	1	0%			
Total	431	100%	43	100%	10%

Summary of Juvenile Delinquency Findings

- The Court's juvenile delinquency case processing performance for FY09 slightly improved to 96% from 95% in FY08. The state goal of closing 98% of cases within 90-days was not met, which is the second time since reporting case processing performance in FY04.
- The overall ACT was 47 days, a day increase from the FY08 level. The within-standard ACT was 43 days (42 days for FY08) and the over-standard ACT increased to 134 days, compared to 127 days for FY08, due to a couple of cases with an extremely long case time.
- Eighty-nine percent of the cases terminated in FY09 were from Track 2 (85% for FY08) and the remaining 11% were from Track 1. Only 3 of the 1,384 juvenile delinquency cases terminated in FY09 were assigned to Track 6. Thus, keeping the case processing performance of Track 2 cases in check is critical to the maintenance of the overall case processing performance of juvenile cases.
- While close to 30% of the juvenile delinquency cases experienced trial postponements, 93% closed within-standard. Of the 26 over-standard cases, 47% experienced trial postponements.

Recommendations for Future Juvenile Delinquency Analyses

- Given the observed performance decline between FY07 and FY08, which appears to continue in FY09, it is imperative that the Court identify factors associated with the declined performance. In particular, it may be interesting to examine how the impact of a reduction in the number of juvenile judges from 4 to 3 in July 2007 impacted case processing performance. Since judges play

an important role in the efficient processing of cases, it may be important to examine the impact of judicial staffing on case processing performance.

- It may be of particular interest to compare scheduling practice of juvenile hearings across FY07 through FY09 to assess the magnitude of changes in scheduling practice on case processing performance.
- It may also be useful to examine the characteristics of those cases closed in FY07 compared to FY09 as noticeable changes in performance appeared between FY07 and FY09.
- A thorough investigation of 2 cases that experienced an extremely large case time (491 days) is needed. While the impact of these cases on the overall case processing performance may not be significant, from the point of view of administering justice in a timely manner, processing of these cases should be examined.
- A more in-depth analysis of Track 2 cases without trial postponements, in particular those closed over-standard, may be warranted since 96% of these case closed within-standard.
 - Further, it may be useful to re-examine the assigned Track in juvenile delinquency cases considering only 3 cases were assigned to Track 6 in FY09.
- Examine all postponements, not simply trial postponements, in order to accurately assess the impact of postponements on case processing time, in particular for Track 2 cases with focus on:
 - Identify causes of postponements and develop strategies to further reduce the number of over-standard cases.
 - Pursue Track-specific analyses by other variables such as case sub-type and postponement reason to identify profiles of cases that are more likely to result in over-standard terminations.
 - Additional analyses may be useful to explore what occurred in FY08 to push a percentage of Track 2 cases over-standard.
- Review the quality control process for juvenile cases as well as identify and implement any necessary changes.
 - In particular, Quality Control and the Juvenile Department may want to focus their review of Track 2 open cases as these represent the majority of juvenile delinquency cases and tend to perform well below the time standard goal.
- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage.
- Similar to FY08, several cases in the data had missing Pre-Disposition Investigations (PDI) and Pre-Disposition Treatment (PDT) start or end dates. This is problematic because such invalid suspension information may over-estimate case processing time. While efforts have been undertaken by the Court to address this issue, continuous review of these initiatives needs to occur to ensure that changes in practice and procedure are implemented and sustained.

Recommendations for the Circuit Court Time Standards Sub-Committee

- For the most part, it appears current definitions of the suspension events cover most of the situations that courts encounter. However, no guidelines are provided for jurisdictions to handle unusual situations. For example, a question was raised as to how jurisdictions should handle a petition of waiver to an adult court or reverse waiver to a juvenile court when the petition was subsequently withdrawn, dismissed, or not explicitly handled. It is recommended that the standards provide some flexibility for jurisdictions in interpretations of unusual circumstances. It is also requested that jurisdictions report such incidents in their jurisdiction-specific reports and that the

Time Standards Sub-Committee address such issues as deemed appropriate and transmit its resolutions to jurisdictions for dissemination.

- The Time Standards Sub-Committee should discuss how courts differ in their docketing of the PDI and PDT suspension events. In particular, clarity should be provided as to what a PDI and PDT entail in the form of agreed upon definitions.
- The Time Standards Sub-Committee should also review the programming procedures related to the exclusion of suspension time and the status (i.e., active or inactive) of a case.

Child In Need of Assistance (CINA) Fiscal Year 2009 Case Terminations

E. CINA Case Processing Definitions and Summary

	CINA Case Time Definitions	Within-Standard Percentage	Additional Montgomery County Measurements
CINA Shelter	<u>Case Time Start:</u> Shelter Care Hearing, CINA Petition Granted. <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 30 days <u>Montgomery County:</u> FY 2005: 71% FY 2006: 70% FY 2007: 60% FY2008: 80% FY2009: 69%	<u>Average Case Processing Time:</u> FY 2005: 30 days FY 2006: 30 days FY 2007: 35 days FY2008: 27 days FY2009: 34 days
CINA Non-Shelter	<u>Case Time Start:</u> Service of CINA Petition. <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 60 days <u>Montgomery County:</u> FY 2005: 97% FY 2006: 76% FY 2007: 88% FY2008: 90% FY2009: 81%	<u>Average Case Processing Time:</u> FY 2005: 34 days FY 2006: 52 days FY 2007: 44 days FY2008: 43 days FY2009: 56 days
Note: CINA shelter and non-shelter case processing time is suspended only for military leave.			

Overall CINA Shelter/Non-Shelter Case Terminations

A total of 302 child in need of assistance (CINA) cases had original closures¹⁰ in the Montgomery County Circuit Court in Fiscal Year 2009 (FY09) (238 shelter and 64 non-shelter), which is a 23% increase over the number of original CINA terminations in FY08. Specifically, 56 more CINA cases had original closures in FY09 compared to FY08 (302 versus 246). Montgomery County Circuit Court currently has 3 judges who preside over the child welfare cases and an additional judge who presides (part-time) over post-adjudication child welfare matters.

The State-defined time standard for CINA shelter cases is 30 days and 60 days for CINA non-shelter cases. The overall average case time (ACT) for FY09 CINA shelter cases is slightly above the 30-day standard at 34 days, and the overall, ACT for non-shelter cases is slightly under the 60 day standard at 56 days. As shown in Table E.1, the ACT for CINA shelter cases for FY09 (34 days) is higher than that for FY08 (27 days) and slightly below that for FY07 (35 days). For non-shelter cases, the ACT for FY09 (56 days) shown in Table E.2 is above that for FY08 (43 days) and FY07 (44 days). In fact, the overall, ACT for CINA non-shelter in FY09 is higher than in any other fiscal year since data collection of child welfare cases for the caseload assessment analysis began in FY05.

The state goal for the percentage of CINA shelter and non-shelter cases closed within-standard is 100%. In FY09, 69% of CINA shelter cases (N = 165) closed within the 30-day time standard with an

¹⁰ For the purposes of this report, "closure" in CINA cases represents the case time stop as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseload Assessment. As such, case time stop (i.e., closure) is identified as adjudication for CINA cases.

ACT of 23 days (see Table E.1). There was an 11 percentage point decline in within-standard performance between FY08 and FY09 (from 80% to 69%); however, the FY09 figure is still 9 percentage-points higher than the FY07 level. While the Court was able to process more CINA shelter cases in FY09 as compared to FY08, the cases weren't being processed as efficiently in FY09. However, it is important to note that increases or decreases in the number of case terminations does not always translate to associated increases or decreases in case time. For example, between FY07 and FY09, 23 more cases were terminated; however, case processing performance was 9 percentage points better in FY09 compared to FY07. Further, there was a 19% increase in the number of within-standard CINA shelter terminations between FY08 and FY09, and a decrease in processing performance. In sum, the number of CINA case terminations may not be the best predictor how efficiently the Court's processes these cases. There may be a certain threshold of 'cases to be processed' that needs to be met in a particular year before the Court experiences any impact on performance, or the link between terminations and performance may be purely spurious (i.e., due to some other factors).

Table E.1 Number of CINA Shelter Case Terminations FY05-09

Fiscal Year	Terminations		Within-Standard Terminations (30-day Standard)			Over-Standard Terminations (30-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	258	30	182	71%	20	76	29%	55
FY06	192	30	135	70%	19	57	30%	57
FY07	215	35	130	60%	19	85	40%	60
FY08	173	27	139	80%	21	34	20%	52
FY09	238	34	165	69%	23	73	31%	58

* ACT = Average Case Time, in days.

In FY09, the overall ACT for CINA shelter terminations was 34 days, which contrasts the overall ACT observed in FY08 (27 days), which was the lowest since FY05 when efforts were initiated to analyze child welfare case performance for the statewide caseload. As shown in Table E.3a, there were minimal changes in the within-standard ACT between FY05 and FY07; however, since then, the within-standard ACT has slightly increased. Prior to FY08, the Court experienced a slight, continual increase in the ACT for over-standard CINA shelter cases. That pattern reversed between FY07 and FY08 revealing a decrease of 13% in the ACT for these cases, and then reverted back to its pre-FY08 pattern by revealing a 12% increase in the over-standard ACT between FY08 and FY09. The increase in the total ACT for CINA shelter cases in FY09 is largely due to the increase in the over-standard ACT, combined with the increased number of such cases, which more than doubled from FY08. Within-standard cases followed a similar yet less extreme pattern with increases in both the ACT and number of terminations.

With regard to CINA non-shelter, as shown in Table E.2, the within-standard percentage in FY09 (81%, N = 52) was lower than that achieved in FY08 (90%, N = 66) and FY07 (88%, N = 42). The ACT for within-standard CINA non-shelter cases was slightly lower in FY09 (36 days) as compared to FY08 and FY07 (37 and 39 days, respectively). A higher percentage of CINA non-shelter cases closed over-standard in FY09 (19%) as compared to the previous two fiscal years (FY08: 10% and FY07: 13%). The over-standard ACT was also higher in FY09 (140 days) compared to FY08 and FY07 (105 and 76 days, respectively). In fact, between FY08 and FY09, there was a 71% increase in the number of over-standard CINA non-shelter cases and a 33% increase in the over-standard ACT (see Table E.3b). Increases in the over-standard ACT began in FY08 with a 38% increase in over-standard case time above FY07.

Table E.2 Number of CINA Non-Shelter Case Terminations FY05-09

Fiscal Year	Terminations		Within-Standard Terminations (60-day Standard)			Over-Standard Terminations (60-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	61	34	59	97%	33	2	3%	64
FY06	51	52	39	77%	41	12	24%	87
FY07	48	44	42	88%	39	6	13%	76
FY08	73	43	66	90%	37	7	10%	105
FY09	64	56	52	81%	36	12	19%	140

* ACT = Average Case Time, in days.

To examine the continued increase in the over-standard ACT for CINA non-shelter cases since FY07, it is important to look at the distribution of over-standard case times. The number of over-standard CINA non-shelter cases has doubled since FY07. The distribution of over-standard case times for FY07 ranged from a low of 66 days representing 1 case to a high of 81 days for 2 cases. The range of over-standard case times for FY08 was between 69 days and 113 days. The number of over-standard non-shelter cases as well as the length of time taken to process such cases increased in FY09. Specifically, there were a total of 12 over-standard CINA non-shelter cases in FY09 with clock times ranging from 63 days (5 cases) to 383 cases (2 cases). Half of the FY09 CINA non-shelter cases that were over-standard were at least two weeks over the time standard (i.e., 60 days).

Table E.3a Annual Changes in the Number of CINA Shelter Case Terminations FY05-09

Annual Change	Total Terminations		Change In Within-Standard Terminations		Change in Over-Standard Terminations	
	N	ACT*	N	ACT	N	ACT
FY05-FY06	-66 (-26%)	0 (0%)	-47 (-26%)	-1 (-5%)	-19 (-25%)	2 (4%)
FY06-FY07	23 (12%)	5 (17%)	-5 (-4%)	0 (0%)	28 (49%)	3 (5%)
FY07-FY08	-42 (-19%)	-8 (-23%)	9 (7%)	2 (10%)	-51 (-60%)	-8 (-13%)
FY08-FY09	65 (38%)	7 (26%)	26 (19%)	2 (9%)	39 (115%)	6 (12%)
FY05-FY09	-20 (-8%)	4 (13%)	-17 (-9%)	3 (15%)	-3 (-4%)	3 (5%)

*ACT: Average Case Time

By reviewing the Court's over-standard CINA non-shelter cases, 5 cases were found to be well over the 60-day time standard: 2 cases closed at 383 days and 3 cases closed at 148 days. The reason for two cases closing at 383 days appears to be due to the issuance of a bench warrant.¹¹ Specifically, these two related cases had a bench warrant issued for the identified mother, father, and respondent on August 3, 2007, approximately 14 days after service was achieved on the parties. The bench warrant was eventually countermanded on August 6, 2008, which is a little over a year after the warrant was initially issued. There were no postponements in these cases; however, two bench warrant status hearings were held on September 4, 2007 and March 17, 2008. At the conclusion of each bench warrant status hearing, the court continued the respondent and the parents on bench warrant status. Issuing a warrant in a CINA case is a rare occurrence; however, given the circumstances of these two cases, the Court determined that it was necessary for the safety, health and welfare of the children. In other case types, FTA-bench warrant/body attachment are considered valid suspension events. If this rule had been applied to child

¹¹ The case numbers associated with the referenced CINA non-shelter cases are 06-I-07-000166 and 06-I-07-000167.

welfare cases, these 2 cases would have been considered as within-standard cases and the performance of CINA non-shelter would have improved to 84%, which is 6 percentage points below the performance of FY09.

For the three cases¹² closing at the 148th day, it appears that the key culprit was postponements. In particular, the pre-trial hearing was postponed twice, and when it was held on November 18, 2008 the 60-day time standard had almost been reached. The Court also granted a good cause extension to postpone the adjudicatory hearing from November 17, 2008 to January 27, 2009 so that the parties could get their affairs in order. The adjudication originally postponed to January 27, 2009 was further postponed to late February 2009 because Discovery/Alternative Dispute Resolution (ADR) was incomplete or more time was needed to prepare for the case. The cases were ultimately called for an adjudicatory hearing on February 24, 2009, and an agreement was placed on the record at that time. These three cases had at least four postponements, which played a big role in the cases closing over the 60-day time standard. Given that the time standard was almost reached at the time that the pre-trial was eventually heard suggests that the Court may want to review its scheduling practices to ensure that such extensions beyond the DCM guidelines and time standards are not routine.

While it is important to examine the cases that are severely over the time-standard, it is also useful to identify and investigate those cases that close just over the time standard. For FY09, there are five cases that closed at 63 days, which is only 3 days after the time standard.¹³ In three of these cases, the adjudicatory hearing was postponed to a date outside the 60-day time standard. Given that the initial adjudicatory hearing was scheduled approximately two weeks prior to reaching the 60-day time standard, it is unclear why the adjudicatory hearing could not be rescheduled to a date within the 60-day goal. For the remaining two cases, neither case was postponed suggesting that the initial adjudicatory hearing date was scheduled outside the 60-day time standard. It might be useful for the Court to reexamine its scheduling procedures to ensure that the initial adjudicatory hearing date occurs prior to the 60-day time standard. Also, it is important to ensure that the Assignment Office and Case Managers have the tools necessary to ensure that dates are scheduled within statutory and the Court's DCM guidelines.

Table E.3b Annual Changes in the Number of CINA Non-Shelter Case Terminations FY05-09

Annual Change	Total Terminations		Change In Within-Standard Terminations		Change in Over-Standard Terminations	
	N	ACT*	N	ACT*	N	
FY05-FY06	-10 (-16%)	18 (53%)	-20 (-33%)	8 (24%)	10 (500%)	23 (36%)
FY06-FY07	-3 (-6%)	-8 (-15%)	7 (18%)	-2 (-5%)	-6 (-50%)	-11 (-13%)
FY07-FY08	25 (52%)	-1 (-2%)	24 (57%)	-2 (-5%)	1 (17%)	29 (38%)
FY08-FY09	-9 (-12%)	13 (30%)	-14 (-21%)	-1 (-3%)	5 (71%)	35 (33%)
FY05-FY09	3 (5%)	22 (65%)	-7 (-12%)	3 (9%)	10 (500%)	76 (119%)

* ACT = Average Case Time, in days.

Similar to CINA shelter cases, the processing performance of CINA non-shelter cases has declined between FY08 and FY09. The overall ACT for CINA non-shelter cases witnessed a 15% reduction

¹² The case numbers associated with the referenced CINA non-shelter cases are 06-I-08-000221, 06-I-08-000222, and 06-I-08-000223.

¹³ The case numbers associated with the referenced CINA non-shelter cases are 06-I-08-000124, 06-I-08-000125, 06-I-08-000126, 06-I-08-000249, and 06-I-08, 000283. It is important to note that cases: 06-I-08-0000124, 06-I-08-000125, and 06-I-08-000126 are related.

between FY06 and FY07, which was noticeably greater than the 2% reduction in overall ACT experienced between FY07 and FY08 (see Table E.3b). However, this pattern reversed between FY08 and FY09 revealing a 30% increase in the overall ACT for CINA non-shelter cases. The increase experienced in the overall ACT is due to the marked increase in the number of days to process over-standard CINA non-shelter cases in FY09. As discussed above, the increase in over-standard ACT is due to a handful of cases that closed at least 3 months past the 60-day time standard. Between FY08 and FY09, there was a decrease in both the number of overall CINA non-shelter terminations and within-standard terminations (12% and 21%, respectively) yet an increase of 71% in the number of over-standard terminations. The performance of CINA non-shelter cases has yet to reach the time standard goal of closing 100% of cases within 60 days of service of the parent or guardian. In FY05, the Court approached the goal by closing 97% of cases within 60-days; however, since then, the within-standard percentage has averaged 84%.

Table E.4 Distribution of Over-Standard CINA Shelter Cases by Clock Time and Track, FY09*

Fiscal Year	N	(% OST)	Mean	Median	Percentile						
					5	10	25	75	90	95	Max
FY07	85	(40%)	60	56	37	40	45	62	80	129	171
FY08	34	(20%)	52	52	31	33	42	62	66	70	83
FY09	73	(31%)	58	52	34	35	41	52	67	83	107

*Given the small number of over-standard CINA non-shelter cases (N = 12) the percentile analysis was not performed. However, the distribution of over-standard CINA non-shelter cases is displayed in Figure E.1.

CINA shelter and non-shelter performance in FY08 reached levels that rivaled performance results from the previous two fiscal years. It was the hope that performance would continue to improve or at least remain at the FY08 level through FY09; however, that did not occur. In fact, FY09 performance results are only slightly above the lowest performance levels experienced in shelter and non-shelter cases since collecting child welfare performance data in FY05. In discussing the FY09 results with the Family Division Services Coordinator and the Clerk of the Court's Juvenile Department, a possible explanation for the decline in performance is the hiring freeze experienced by the Public Defender's (PD) Office. More specifically, due to funding cuts, the PD's Office was unable to hire private attorneys as part of their panel, which impacted the PD attorneys' ability to attend all scheduled court events. In the past, if multiple court events were scheduled for the same day, the PD would attend one and pay private attorneys to attend the others. Given the current lack of funding, the PD's Office is no longer able to pay private attorneys and conflicting court events need to be rescheduled. In regard to child welfare cases, PDs are more likely to reschedule a CINA case as opposed to a termination of parental rights (TPR) case creating a potential vulnerability in the efficient processing of CINA cases. While the Court is not suggesting that declines in CINA performance are solely the result of the current economic climate, it is important that performance results take into account not only internal but also external factors that may impede performance.

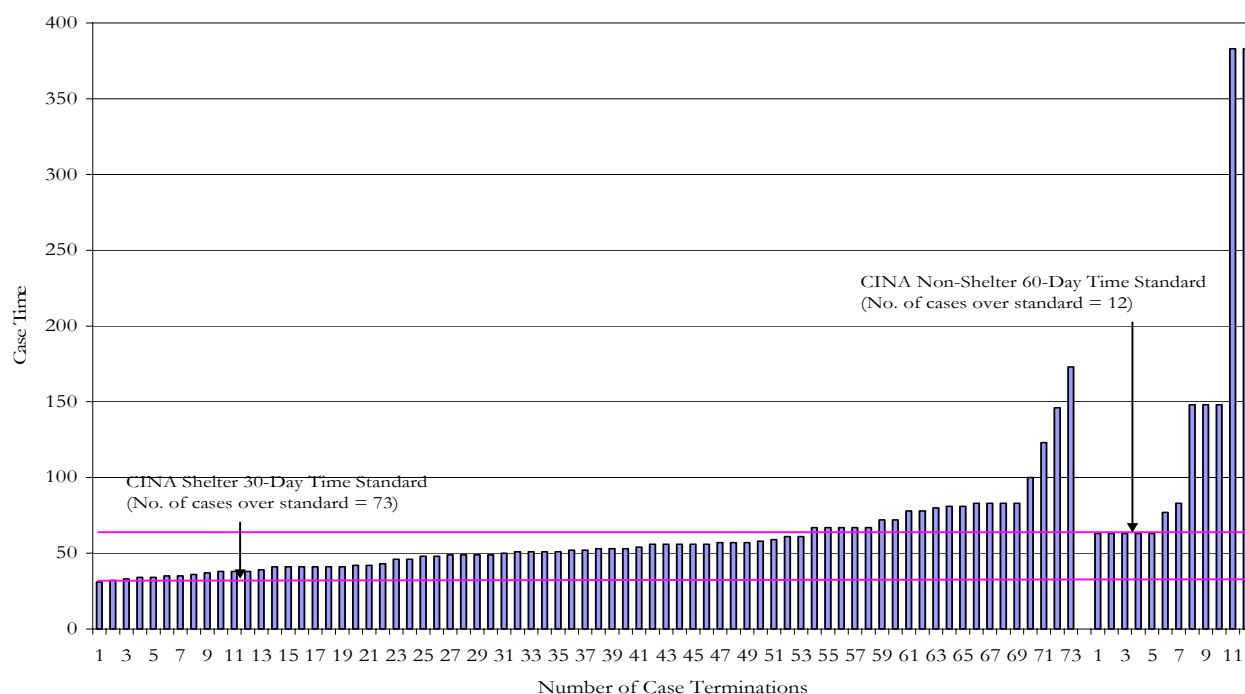


Figure E.1 CINA Shelter and CINA Non-Shelter Terminations that are over-standard, FY09
Case Terminations by Track

Montgomery County Circuit Court's Differentiated Case Management (DCM) Plan established two tracks each for CINA shelter (Tracks 3 and 7) and non-shelter (Tracks 4 and 8) cases. For both CINA shelter and non-shelter cases, there are standard tracks (Tracks 3 and 4) and complex tracks (Tracks 7 and 8). Unlike standard cases, complex cases are designated as such because they require more Court resources and time for the proper resolution.

As shown in Table E.5a, on average, over-standard CINA shelter cases took over two times as long to close than the within-standard cases (58 versus 23 days, respectively). For CINA non-shelter cases (see Table E.5b), the average case time (ACT) for the over-standard cases was 140 days, almost four times longer than that of within-standard cases (36 days). For over-standard CINA shelter Track 7 cases, the ACT was 59 days and for the over-standard CINA non-shelter Track 8 cases, the ACT was 166 days. Similar to FY08, Tables E.5a and E.5b reveal that in FY09 complex CINA shelter and non-shelter cases comprised the majority of the over-standard terminations (74% and 75%, respectively), and the processing of these tracked cases is lengthier as compared to the standard CINA Tracks.

Table E.5a FY09 CINA Shelter Case Terminations by Termination Status (Within or Over the 30-day Standard) and Track

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 3	100	42%	29	81	81%	49%	23	19	19%	26%	56
Track 7	138	58%	37	84	61%	51%	23	54	39%	74%	59
Total	238	100%	34	165	69%	100%	23	73	31%	100%	58

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

Table E.5b FY09 CINA Non-Shelter Case Terminations by Termination Status (Within or Over the 60-day Standard) and Track

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 4	23	36%	42	20	87%	38%	39	3	13%	25%	63
Track 8	41	64%	64	32	78%	62%	35	9	22%	75%	166
Total	64	100%	56	52	81%	100%	36	12	19%	100%	140

* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

Case Terminations by Trial Postponements

Overall, almost 40% of the CINA shelter cases had at least one trial postponement in FY09 (93/238), which is a noticeable increase over FY08 (26% of cases had at least one trial postponement) (see Table E.7a). Of the cases with trial postponements, over three-fourths (77%, 72/93) were over-standard (72/93). In FY09, only 26% of the standard, Track 3 CINA shelter cases had a trial postponement compared to almost half of the complex, Track 7 cases. The majority of CINA shelter Track 3 and Track 7 cases with trial postponements closed over-standard (73% and 79%, respectively). Among CINA shelter cases without postponements, only 1% closed over-standard. Given the relatively short case processing time in which to close CINA shelter cases within-standard (i.e., 30 days from granting the petition to continue the child in shelter care), trial postponements have the ability to wreck havoc on the case processing performance of this case type.

Of CINA shelter cases with trial postponements, the majority have a single postponement (93%). A total of 7 cases (7%) cited 2 or more trial postponements (see Table E.7a). In comparison, in FY08, cases had no more than 2 trial postponements. The most frequently cited trial postponement reason among CINA shelter cases in FY09 is ‘Calendar Conflicts – Party Needs To Get Affairs In Order’ (N = 59, cited for all cases; N = 43, cited for over-standard cases), followed distally by ‘New Counsel Sought Or Has Entered Their Appearance Or Not Appointed’ (N = 13, cited for all cases; N = 13, cited for over-standard cases).

The association between postponements and over-standard CINA non-shelter terminations was briefly discussed above. In general, the extent to which postponements impact case processing time depends on the number of postponements granted in a case and the length of time afforded for each postponement granted. As shown on Table E.7b, slightly over a one-fourth (27%) of the CINA non-shelter cases were postponed in FY09, which is comparable to the FY08 figure (37%). In FY09, the presence of a trial postponement resulted in a case having an almost equal chance of closing within- as compared to over-standard (53% and 47%, respectively). This finding contrasts the results obtained for FY08 where all CINA non-shelter cases with a single trial postponement closed within-standard. In both FY09 and FY08, all cases with two trial postponements resulted in over-standard terminations (see Table E.7b). While having a single trial postponement negatively impacts the processing of CINA shelter cases, it appears that a threshold of at least two postponements needs to be achieved to adversely impact the processing of non-shelter cases.

Among postponed CINA non-shelter cases, the majority (65%) were from Track 8 (11/17). Similar to CINA shelter cases, the majority of CINA non-shelter cases had only one trial postponement (82%) and only 3 (18%) cases contained 2 postponements (see Table E. 7b). According to Table E.8b, the most frequently cited reason for a trial postponement among postponed non-shelter cases was ‘Calendar Conflicts – Party Needs To Get Affairs In Order’ (N = 12, cited for all cases, N = 7, cited for over-standard cases).

Table E.6a FY09 CINA Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 30-day Standard), and Track

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 3	100	26	26%	49	7	27%	29	19	73%	56
Track 7	138	67	49%	52	14	21%	25	53	79%	59
Total	238	93	39%	51	21	23%	27	72	77%	58
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 3	100	74	74%	22	74	100%	22	---	---	---
Track 7	138	71	51%	23	70	99%	23	1	1%	43
Total	238	145	61%	23	144	99%	22	1	1%	43

* ACT = Average case time, in days.

As shown in Table E.6a, of the 73 CINA shelter cases that closed over-standard, only a single case (1%) was without a trial postponement. In contrast, of the 12 CINA non-shelter cases that closed over-standard, 33% (4 cases) did not have a postponement. While the presence of a single postponement doesn't mean that a non-shelter case will close over-standard, it does appear that performance will be impacted as the number of postponements increase. Specifically, all CINA non-shelter cases with 2 postponements closed over-standard. Therefore, factors such as the frequency, type, and length of postponements need to be considered to fully understand the impact of postponements on case processing performance.

Table E.6b FY09 CINA Non-Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 60-day Standard), and Track

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 4	23	6	26%	55	3	50%	48	3	50%	63
Track 8	41	11	27%	84	6	55%	54	5	45%	121
Total	64	17	27%	74	9	53%	52	8	47%	99
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 4	23	17	74%	37	17	100%	37	---	---	---
Track 8	41	30	73%	56	26	87%	30	4	13%	223
Total	64	47	73%	49	43	91%	33	4	9%	223

* ACT = Average case time, in days.

Table E.7a Postponed CINA Shelter Cases by the Number of Trial Postponements and Termination Status, FY07-FY09

All Cases					Within-Standard Cases				Over-Standard Cases				% of Over-Standard/ All Cases		
Number of Postponements	FY09 N	FY09 %	FY08 %	FY07 %	FY09 N	FY09 %	FY08 %	FY07 %	FY09 N	FY09 %	FY08 %	FY07 %	FY09	FY08	FY07
1	86	93%	96%	84%	21	100%	100%	92%	65	90%	94%	83%	76%	72%	86%
2	3	3%	4%	13%	0	0%	0%	8%	3	4%	6%	13%	100%	100%	92%
3	3	3%	0%	3%	0	0%	0%	0%	3	4%	0%	4%	100%	--	100%
4	1	1%			0	0%			1	1%			100%		
Total	93	100%	100%	100%	21	100%	100%	100%	72	100%	100%	100%	77%	73%	87%
% Postponed		39%	26%	44%		13%	9%	9%		99%	97%	98%			

Note: Percentages do not always add to 100% due to rounding.

Table E.7b Postponed CINA Non-Shelter Cases by the Number of Trial Postponements and Termination Status, FY07-FY09

All Cases					Within-Standard Cases				Over-Standard Cases				% of Over-Standard/ All Cases		
Number of Postponements	FY09 N	FY09 %	FY08 %	FY07 %	FY09 N	FY09 %	FY08 %	FY07 %	FY09 N	FY09 %	FY08 %	FY07 %	FY09 %	FY08 %	FY07 %
1	14	82%	74%	94%	9	100%	100%	100%	5	63%	0%	80%	36%	0%	25%
2	3	18%	26%	6%	0	0%	0%	0%	3	38%	100%	20%	100%	100%	100%
Total	17	100%	100%	100%	9	100%	100%	100%	8	100%	100%	100%	47%	100%	26%
% Postponed		27%	37%	35%		17%	30%	29%		67%	100%	83%			

Note: Percentages do not always add to 100% due to rounding.

Table E.8a Reasons for Trial Postponements by Termination Status for CINA Shelter Cases, FY09

Reason for Trial Postponement		All Cases		Over-Standard Cases		% of Over- Standard/ All Cases
		N	(%)	N	(%)	
1	Calendar Conflicts - Party Needs to Get Affairs In Order	59	56%	43	51%	73%
2	New Counsel Sought or Has Entered Their Appearance or Not Appointed	13	12%	13	15%	100%
3	Parent Not Present	6	6%	2	2%	33%
4	Witness Unavailable-New Witness Identified	7	7%	6	7%	86%
5	Reports and Evaluations Not Completed/Reevaluation Ordered	5	5%	5	6%	100%
6	Illness, Medical Emergency, or Death	3	3%	3	4%	100%
7	Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	1	1%	1	1%	100%
8	Party(s) Did Not Receive Notice of Court Date	1	1%	1	1%	100%
9	Increase/Decrease Court Time/Track Change/Postpone Behind Another Case	7	7%	7	8%	100%
10	New Complaint, Petition, 3 rd Party Complaint, or Consolidation Pending/Complaint Not at Issue or Ripe	3	3%	3	4%	100%
Total		105	100%	84	100%	80%

Note: Percentages do not always add to 100% due to rounding.

Table E.8b Reasons for Trial Postponements by Termination Status for CINA Non-Shelter Cases, FY09

Reason for Trial Postponement		All Cases		Over-Standard Cases		% of Over-Standard Reasons/All Reasons
		N	(%)	N	(%)	
1	Calendar Conflicts - Party Needs to Get Affairs In Order	12	60%	7	64%	58%
2	Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	3	15%	3	27%	100%
3	Parent Not Present	1	5%			
4	Settlement, Plea or Reconciliation in Progress	2	10%			
5	Vacation Plans/Religious Reasons	1	5%			
6	Witness Unavailable – New Witness Identified	1	5%	1	9%	100%
Total		20	100%	11	100%	55%

Note: Percentages do not always add to 100% due to rounding.

Summary of CINA Shelter and CINA Non-Shelter Findings

- Sixty-nine percent of CINA shelter cases closed within the 30-day time standard, and 81% of the CINA non-shelter cases closed within the 60-day time standard. Marked declines in the within-standard percentage occurred between FY08 and FY09 for both CINA shelter and non-shelter cases.
- Between FY05 and FY07, the Court experienced a slight, continual increase in the ACT for over-standard CINA shelter cases. That pattern reversed between FY07 and FY08, and then reverted back to its pre-FY08 pattern by revealing a 12% increase in the over-standard ACT between FY08 and FY09.
- With regard to CINA non-shelter cases, the ACT for within-standard CINA non-shelter cases was slightly lower in FY09 (36 days) as compared to FY08 and FY07 (37 and 39 days, respectively). Between FY08 and FY09 there was a 71% increase in the number of over-standard CINA non-shelter cases and a 33% increase in the over-standard ACT.
- Thirty-nine percent of CINA shelter cases had trial postponements in FY09, and 77% of them closed over-standard.
- In FY09, 27% of CINA non-shelter cases had trial postponements. Postponed CINA non-shelter cases had an almost equal chance of closing within- or over-standard (53% and 47%, respectively).

Recommendations for Future CINA Analyses

- Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage the case performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further declines in performance.
- For CINA non-shelter cases, over half of the postponed cases closed within-standard. In contrast for CINA shelter cases, the majority of postponed cases closed over-standard. It may be useful to reexamine the procedures that alert court officials about how the granting of postponements can impact case processing performance. It may also be useful to examine the average postponement length and how it impacts performance.
- Montgomery County Circuit Court experienced marked improvements in the performance of CINA shelter and non-shelter cases between FY07 and FY08. In contrast, equally marked declines in performance were experienced between FY08 and FY09. The Court should examine more closely the changes implemented in FY09 that impacted case processing performance. While possible explanations such as budget cuts in the Public Defender's Office may explain some of the

declines in performance, it may be useful to further investigate internal factors contributing to the declines.

- Another possible cause for the declined CINA case processing performance is the scheduling of hearings when multiple CINA cases are filed in a very short period of time. As noted above, the number of attorneys who are contracted to handle CINA cases is limited (currently 2 law firms are contracted to handle CINA cases). Also, CINA hearings are held only a couple days a week, and automatic scheduling of CINA hearings when a number of cases are filed simultaneously results in stacking of the hearings and/or double-booking of attorneys. This practice sometime results in the postponement of hearings. The Court may want to review its scheduling practices as well as CINA case filing patterns.
- Questions have been raised about track assignment in CINA cases. In particular, it would be useful to identify what criteria are being used to assign cases to standard versus complex cases. A meeting should be convened with key personnel to discuss how track assignment impacts court procedure and practice.
- The Court should examine its scheduling practices to ensure that personnel have the tools available to schedule court events within statutory and the Court's DCM guidelines.

CINA Recommendations to the Circuit Court Time Standards Sub-Committee

- Create a flag to identify CINA cases that switch placement status from shelter to non-shelter and vice versa. The Time Standard Sub-Committee should discuss whether these types of CINA cases require a unique time standard.
- Discussion should occur regarding the appropriate use of suspension events in measuring case processing performance regardless of whether they are considered as valid suspension events according to the time standards or not. As observed in 2 CINA non-shelter cases, there are instances (although rare) where it is in the best interests of the child/children to extend case time beyond statutory guidelines by issuing bench warrants. Since the time standards are attempting to measure the time for which the Court has control, including time between the issuance of a bench warrant and its outcome (for example) over estimates the Court's case processing time.

Termination of Parental Rights (TPR) Fiscal Year 2009 Case Terminations

F. TPR Case Processing Definitions and Summary

	TPR Case Time Definitions	Percent Within Standard	Additional Montgomery County Measurements
TPR	<u>Case Time Start:</u> TPR Petition Filed. <u>Case Time Stop:</u> Ruling on Petition (guardianship judgment/decree).	<u>State-Set Goal:</u> 100% within 180 days <u>Montgomery County:</u> FY 2005: 60% FY 2006: 56% FY 2007: 42% FY2008: 61% FY2009: 95%	<u>Average Case Processing Time:</u> FY 2005: 179 days FY 2006: 169 days FY 2007: 208 days FY2008: 187 days FY2009: 145 days

Note: TPR case processing time is suspended for interlocutory appeal and military leave.

Overall TPR Case Terminations

Table F.1 displays the number of original termination of parental rights (TPR) case terminations¹⁴, as well as case processing performance by termination status for Fiscal Years 2005-2009 (FY05-FY09). The number of TPR cases with original terminations in FY09 is 39, which reflects a 44% decrease in terminations over FY08 (N = 70). The number of original TPR case terminations has fluctuated over the past five fiscal years. For example, between FY07 and FY08, there was 125% increase in the number of originally terminated TPR cases, which is markedly higher than what was experienced between FY08 and FY09.

Table F.1 Number of TPR Case Terminations FY05-09

Fiscal Year	Terminations		Within-Standard Terminations (180-day Standard)			Over-Standard Terminations (180-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	40	179	24	60%	129	16	40%	255
FY06	18	169	10	56%	127	8	44%	222
FY07	31	208	13	42%	134	18	58%	260
FY08	70	187	43	61%	128	27	39%	282
FY09	39	145	37	95%	143	2	5%	196

* ACT = Average Case Time, in days.

The percent of TPR cases closing within-standard (WST) in FY09 is 95%, which is 34 percentage points higher than the WST percentage for FY08 (61%). In fact, closing 95% of TPR cases within-standard has not been achieved since the statewide caseload assessment began measuring TPR case processing performance in FY05. The overall average case time (ACT) decreased by 42 days (22%) between FY08 and FY09. The decrease in the overall ACT appears to be due to a decrease in the over-standard ACT from 282 days in FY08 to 196 days in FY09 (i.e., 30% change). The decrease in overall

¹⁴ For the purposes of this report, "closure" in TPR cases represents the court's final order of guardianship as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseflow Assessment.

ACT could also be attributed to the fact that the Court processed markedly fewer (44%) TPR cases in FY09 as compared to FY08. As shown in Table F.1, FY08 had the highest number of TPR terminations (N = 70) than in any other previous assessment year.

Trend in TPR Case Terminations

Table F.2 displays the trend in the number and case processing performance of TPR cases since FY05. The total number of TPR cases terminated annually has been quite variable. The number of original terminations in FY09 is comparable to the number of terminations experienced in FY05 and FY07. The total number of terminations experienced in FY06 and FY08 appear to reflect the lower and upper bounds, respectively of total TPR terminations. Between FY05 and FY09, there has been a very slight percentage decrease in the number of total TPR cases terminated annually, and a decrease of 19% in the overall ACT. Among within-standard TPR terminations there has been a 54% increase between FY05 and FY09, whereas among over-standard TPR terminations there has been an 88% decrease during the same time period. The large percentage decrease in the number of over-standard TPR terminations is driven by the marked reduction in total TPR cases experienced in FY09. According to the Family Division Services Coordinator and the Clerk of the Court's Juvenile Department, there are several possible reasons for the decrease in FY09 TPR filings, including:

- A decrease in the number of children remaining in foster care for at least 15 months, which is required for the TPR to be filed.
- A decrease in the number of CINA filings in FY2008 as the number of TPR filings in a given year is directly related to the number of CINA filings in the preceding year.
- A decrease in the presence of large sibling groups that come into foster care.

Similar to the trend in the total number of within- and over-standard terminations, the ACT for within-standard cases has increased between FY05 and FY09 by 11%, and the ACT for over-standard cases has decreased by 23% during the same time period. Interestingly enough, FY08 experienced the greatest number of TPR terminations since FY05, and despite this increase, the Court improved its within-standard percentage by 19 percentage points from closing 42% of its cases within-standard in FY07 to closing 61% within-standard in FY08. Between FY07 and FY08, processing more TPR cases did not result in less efficient processing. In FY09, which had a comparable number of TPR terminations to FY05, more cases were processed within the 180-day time standard; however, the ACT among within-standard cases in FY09 was 11% higher than among those cases processed in FY05.

Table F.2 Annual Changes in the Number of TPR Case Terminations FY05-09

Annual Change	Total Terminations		Change In Within-Standard Terminations (180-day Standard)		Change in Over-Standard Terminations (180-day Standard)	
	N	ACT*	N	ACT	N	ACT
FY05-FY06	-22 (-55%)	-10 (-6%)	-14 (-58%)	-2 (-2%)	-8 (-50%)	-33 (-13%)
FY06-FY07	13 (72%)	39 (23%)	3 (30%)	7 (6%)	10 (125%)	38 (17%)
FY07-FY08	39 (125%)	-21 (-10%)	30 (231%)	-6 (-4%)	9 (50%)	22 (8%)
FY08-FY09	-31 (-44%)	-42 (-22%)	-6 (-14%)	15 (12%)	-25 (-93%)	-86 (-30%)
FY05-FY09	-1 (-2%)	-34 (-19%)	13 (54%)	14 (11%)	-14 (-88%)	-59 (-23%)

* ACT = Average Case Time, in days.

For the past two fiscal years, the Montgomery County Circuit Court has undertaken several initiatives to ensure that child welfare cases are processed not only efficiently but also in accordance with the Maryland Judiciary's defined time standards, the Court's best practices, and all Maryland rules and federal guidelines. By drawing on the findings presented in past Caseflow Assessment Reports and engaging key stakeholders in discussions about the processing of TPR cases, the Court under the direction of the Family Division Services Coordinator and the former Supervising Juvenile Case Manager, instituted the following improvement initiatives mid-way through FY08:

- Scheduling of service/status hearings was implemented mid-FY08. In order to serve parent(s) and/or guardian(s) as soon as possible and following Maryland Rule 9-104b, which requires a status hearing to be held within 60 days from filing, the Court now sets the initial service/status hearing and schedules the hearing every two weeks until service is perfected. By doing this the Court is ensuring that the issue of service compliance remains a priority.
- Scheduling hearings are now held on the record with case manager involvement to minimize attempts to schedule the trial date too far into the future. Scheduling hearings were initially called scheduling conferences and were held in chambers with the judge's law clerk, the County Attorney, the parents' attorneys, and the child's attorney. At times, pressure was put on the law clerks to select trial dates beyond the time standard guidelines.
- TPR mediation status hearings have been implemented to allow the parties to come directly from mediation and place consents or agreements on the record, rather than requiring them to prepare and file a motion, which must then be processed and ruled upon resulting in additional time taken to process TPR cases.
- The Office of the County Attorney has modified its approach to handling child welfare cases, which has helped to improve TPR case processing. Specifically, an Associate County Attorney now tracks TPR case progress from filing to service, maintains weekly contact with Court personnel about the status of service attempts, and has streamlined attorney assignment.
- The Court's Permanency Planning Liaison maintains a TPR case database to closely monitor the progress of each case. The Liaison has also witnessed increased use of the 'parent ID litany,' which is performed by the Court at the request of the Department of Health and Human Services (DHHS). This litany gathers location information about the parties at the time of the CINA case to minimize challenges the Court may have in locating parents if a TPR case is filed.

While an improvement in TPR case processing performance was achieved between FY07 and FY08, it was not until FY09 that the Court started reaping the rewards of its improvement strategies. In fact, as noted in last year's assessment report, the Court anticipated that the full impact of these initiatives would not be revealed until FY09. Despite having these initiatives implemented for an entire fiscal year, the Court was unable to achieve the time standard goal of closing 100% of TPR cases within 180-days. That said, only two out of 39 cases closed over the time standard. In examining the Court's docket entries for these two cases, some of the characteristics that may have contributed to the over-standard status include:

- Challenges achieving service. In both cases, one if not both parents needed to be served via publication, and four to six service status hearings were held in these cases to track the progress being made to serve the parents.
- Postponements. Neither case had a trial postponement.

With regard to measuring TPR performance, the current time standards set the case start time at the filing of the TPR petition and the case stop date at the ruling on the petition, and stipulate that the cases should close within 180 days to reflect the legislative intention, the protection of the welfare of children involved in these cases. From a judicial case processing perspective, including the time that a court is largely forced to wait and remain inactive, such as the time between case filing and service, in the

calculation of case time seems to confound the accurate calculation of the case processing time. This is particularly true for TPR cases where the cases are often delayed due to difficulties in locating and serving parents. That said, the Court has undertaken steps to track service status by holding service status hearings. While such efforts do not guarantee more efficient case processing performance, they do place the Court in a more pro-active posture.

Case Terminations by Trial Postponements

Tables F.3 through F.5 provide information on TPR trial postponements. In FY09, 26% (10/39) of TPR cases were postponed (see Table F.4.), which is comparable to the percentage of postponed cases in FY07 (26%) and markedly less than FY08 (41%). All TPR cases that were postponed in FY09 were only postponed once compared to 83% in FY08 and 88% in FY07. Similar to FY07, no TPR cases with a single postponement in FY09 closed over-standard, which contrasts with FY08 where nearly half (46%) of TPR cases with a single postponement closed over-standard. Based on the FY09 data, a TPR case with a single postponement does not negatively impact case processing performance. However, cases with trial postponements do have a slightly longer overall case processing time as compared to cases without postponements (148 days and 144 days, respectively). Two TPR cases closed over-standard without being postponed. As discussed above, one possible reason for this to occur is due to service challenges. Often times, trial postponements occur once the parties have been served and additional time is needed for the attorney's to get their affairs in order or to accommodate schedules.

Table F.3 FY09 TPR Case Terminations by Trial Postponements, Termination Status (Within or Over the 180-day Standard), and Track

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 9	39	10	26%	148	10	100%	148	---	---	---
Total	39	10	26%	148	10	100%	148	---	---	---

Table F.3 FY09 TPR Case Terminations by Trial Postponements, Termination Status (Within or Over the 180-day Standard), and Track, Continued

<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 9	39	29	74%	144	27	93%	141	2	7%	196
Total	39	29	74%	144	27	93%	141	2	7%	196

* ACT = Average case time, in days.

The most frequently cited reason for postponing a TPR case was 'System-Generated Initial Trial Date – Not Conformed to Counsels' Availability' (N = 5, times cited as a reason for all TPR cases). It may be important for the Court to investigate postponements due to a 'System-Generated Initial Trial Date (that does) Not Conform to Counsels' Availability' because it may reveal gaps in the Court's scheduling practices. If automatically scheduled trial dates are more often than not postponed, it may be useful to explore alternatives to such scheduling practices. It is also interesting to note that this postponement reason has not been used in TPR cases for the past two years. Given that only 26% of the TPR cases had a postponement and, of those, all closed within-standard, other factors appear to play a role in why a case closes over-standard.

Table F.4 Postponed TPR Cases by the Number of Trial Postponements and Termination Status, FY07-09

All Cases					Within-Standard Cases				Over-Standard Cases				% of Over-Standard/All Cases		
Number of Postponements	FY09		FY08	FY07	FY09		FY08	FY07	FY09		FY08	FY07	FY09	FY08	FY07
	N	%	%	%	N	%	%	%	N	%	%	%	%	%	%
1	10	100%	83%	88%	10	100%	76%	100%	---	---	92%	0%	---	46%	0%
2	0	---	14%	13%	---	---	24%	0%	---	---	0%	100%	---	0%	100%
3	0	---	3%	0%	---	---	0%	0%	---	---	8%	0%	---	100%	---
Total	10	100%	100%	100%	10	100%	100%	100%	---	---	100%	100%	---	41%	13%
% Postponed		26%	41%	26%		27%	40%	54%			44%	6%			

Note: Percentages do not always add to 100% due to rounding.

Table F.5 Reasons for Trial Postponements by Termination Status for TPR Cases, FY09

Reason for Trial Postponement		All Cases	
	N		(%)
1 Calendar Conflicts - Party Needs to Get Affairs In Order	2		20%
2 Pending Motions to Be Heard or Ruled On	3		30%
3 System-Generated Initial Trial Date Not Conformed to Counsels' Availability	5		50%
Total	10		100%

Note: Percentages do not always add to 100% due to rounding.

Summary of TPR Findings

- There were 39 TPR original case closures by Montgomery County Circuit Court in FY09, which represents a 44% decrease in the total number of terminations since FY08 (70 case terminations).
- In FY09, 95% of TPR cases closed within-standard, which was a 34 percentage-point improvement over the number of within-standard terminations achieved for FY08. The Circuit Court has yet to meet the state defined goal of closing 100% of TPR cases within-standard; however, efforts have and are continuing to be undertaken to achieve the defined goal.
- Twenty-six percent of TPR cases were postponed (10/39) in FY09. However, all of the TPR cases with postponements were closed within-standard.
- Among postponed TPR cases, all cases had a single postponement and the most frequently cited postponement reason was due to a trial date that was system-generated and ultimately did not conform to counsels' availability.

Recommended for Future TPR Analyses

- Convene a meeting with the Family Division Services Coordinator, Supervising Juvenile Case Manager, and the Clerk of the Court's Juvenile Department to discuss additional analyses that can be performed to help sustain (if not improve) TPR case processing performance. Particularly, it may be useful to identify potential areas for improvement at all key stages between filing and the final TPR order.
- Changes have been made in the scheduling practices of TPR cases. Particularly, an effort has been made to schedule and hold all court-related conferences soon after the order to serve the identified parties via publication has been ordered. It is anticipated that by scheduling such conferences earlier (prior to the conclusion of the objection period) the Court will be able to ultimately improve case processing performance. Subsequent analyses should be performed to assess the extent to which the time between the signing of the final order and the scheduling conference has been shortened, and the impact that has on case processing time.
- Examine the number of TPR cases with siblings terminated in FY08 as compared to the number of such cases in FY09. Assess the extent to which such cases impact the overall performance of TPR cases not only in workload but also in processing time.

- Examine the number of cases with trials held in FY08 as compared to FY09. Assess the extent to which disposition type impacts performance.
- Review TPR scheduling practices to ensure that such practices align with the Court's DCM guidelines.

Recommendations to the Circuit Court Time Standards Sub-Committee

- As noted in the FY08 Caseflow Assessment Report, certain circuit courts are not using the correct case stop date code (i.e., the TFOG) to reflect a final order of guardianship. As such, certain courts have an incorrect number of TPR cases captured in the Assessment Application. While the Time Standards Sub-Committee and JIS discussed this issue, it has been further determined in FY09 that additional discussion needs to occur about the appropriate TPR case stop date. Specifically, JIS documentation for the caseflow assessment should not include 'TPR granted/denied' as a valid case stop date in TPR cases. The only valid TPR case stop dates include: final order of guardianship, dismissal, and withdrawal.